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## By the Sweat & Toil of Children: The Use of Child Labor in American Imports

U.S. Department of Labor

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## By the Sweat & Toil of Children: The Use of Child Labor in American Imports

### Keywords

Key workplace documents, federal, ILR, Catherwood, sweat, toil, children, international, child, labor, program, affairs, report, policy, trade, development, ILO, government, IPEC, UNICEF, imports, U.S., United States

### Comments

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B Y T H E  
**SWEAT  
& TOIL**  
O F C H I L D R E N

The Use of Child Labor in  
American Imports



U.S. Department of Labor



# BY THE SWEAT AND TOIL OF CHILDREN

## A Report to Congress

Bureau of International Labor Affairs U.S. Department of Labor

July 15, 1994

*The Department wishes to acknowledge the significant contributions made by all the members of the International Child Labor Study Office to the research, writing, and publication of this report. They are Sonia A. Rosen, Director; Don R. Kienzle, Associate Director; Alya Kayal, Research Analyst; Anne O'Toole, Research Analyst; Enrique Lopez-Mena, Compliance Specialist - Employment Standards Administration; and Angel Wood, Secretary.*

*The Department also wishes to acknowledge the leadership of the Bureau of International Labor Affairs in conducting the report. Under the direction of Joaquin F. Otero, Deputy Under Secretary for International Labor Affairs, the responsibility for overseeing the report was led by Andrew J. Samet, Associate Deputy Under Secretary for International Labor Affairs with assistance from Daniel Solomon, Special Assistant.*

*Finally, in recognition of his commitment to the eradication of child exploitation, acknowledgments are due to Jim Sweeney, U.S. Senate staff member, who died on August 21, 1993.*

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## EXECUTIVE SUMMARY

### A. CONGRESSIONAL MANDATE

In the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 1994, Public Law 103-112, the Committees on Appropriations, U.S. Congress, directed the Secretary of Labor to undertake a "review to identify any foreign industry and their host country that utilize child labor in the export of manufactured products from industry or mining to the United States." Congress further instructed the Secretary to "utilize all available information including information made available by the International Labor Organization and human rights organizations."

For purposes of the study, the Department used as its definition of child labor the international standard. That standard is contained in the International Labor Organization's Convention 138 on Minimum Age for Employment (1973) which provides as follows:

*The minimum age . . . should not be less than the age of compulsory schooling and, in any case, shall not be less than 15 years. Convention 138 allows countries whose economy and educational facilities are insufficiently developed to initially specify a minimum age of 14 years and reduce from 13 years to 12 years the minimum age for light work.*

There is no explicit definition of "light work" in the Convention, other than it not be likely to harm the health or development of young persons, and that it not prejudice their attendance at school, their participation in vocational orientation or training programs approved by the competent authority or their capacity to benefit from the instruction received.<sup>1</sup>

To carry out this task in a timely and effective manner, the Department of Labor established an International Child Labor Study staff and developed a study strategy, which is described in detail in Appendix A entitled "Background and Methodology." The staff in preparing this report has sought to draw on as wide a range of sources as possible, including: the International Labor Organization, UNICEF, human rights and other non-governmental organizations, American embassies abroad, labor organizations, foreign governments, businesses, academics, journalists, special country studies, and field visits. The Department of Labor also held a public hearing for this study on April 12, 1994.

### B. FINDINGS: PATTERNS AND TRENDS

#### 1. Scale of the Problem

Statistics on child labor are in general fragmentary and suspect. Many governments, especially in the developing world, lack an adequate system for obtaining accurate data on child labor. Moreover, they are reluctant to document activities which are often illegal under their domestic laws, violate international labor standards, and are perceived by many as a serious failure in their public policy.

Nevertheless, the International Labor Organization has estimated the total number of child workers to be between 100-200 million. According to the ILO, more than 95 percent of all child workers live in developing

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<sup>1</sup> *General Survey of the Reports relating to Convention 138 and Recommendation No. 146 concerning Minimum Age*, Report III (Part 4 B)(Geneva: International Labor Organization, 1981) 73.

countries. As the world's most populous region, Asia accounts for more than 50 percent of child laborers. However, Africa has the highest percentage of children working, roughly one in three. In Latin America, an estimated 15 to 20 percent of all children work.

Child workers are found in a wide range of economic activities. The largest numbers work in family-based agriculture, in services (domestic servants, restaurants, and street vending), prostitution, and in small-scale manufacturing (carpets, garments, furniture, etc.). Most children work in the "informal" economy, which is generally not regulated by national law, rather than in the formal economy, although subcontracting in such industries as garments, shoes, and carpets often makes a distinction between formal and informal difficult to determine.

## 2. Export Industries and Child Labor

Only a very small percentage of all child workers, probably less than five percent, are employed in export industries in manufacturing and mining. And they are not commonly found in large enterprises; but rather in small and medium-sized firms and in neighborhood and home settings. Those export industries which most commonly employ children include garments, carpets, shoes, small-scale mining, gem-polishing, food-processing, leather tanning, and furniture. In some cases, government policies to promote exports of low-skilled, labor intensive products, such as garments and carpets, may have resulted in an increase in the demand and use of child labor. Without strong international pressure and corresponding international assistance, child labor is likely to continue.

Quantifying the extent of child labor in a particular export industry in a particular country can seldom be done with specificity. Complex subcontracting arrangements with layers of middlemen between the exporter and the primary production unit frequently hide or at least disguise the use of child labor. Further complicating any serious analysis is the fact that in some industries, for example in the garment and shoe industries, parts fabricated by children in one country are sent to a second country for assembly before being exported to the United States. Although these flows are no doubt significant and merit further investigation, tracing them in this study was beyond current resources and capabilities.

## 3. Conditions of Employment

There is a consensus among experts that child workers are generally less demanding, more obedient, and less likely to object to their treatment or conditions of work. They can easily be taken advantage of and more often than not are. The great majority work long hours for substandard wages under unhealthful conditions. They have few if any legal rights, can be fired without recourse, and are often abused. While a few may be relatively well off compared with their peers, almost all are deprived of an adequate education and options for future work. They also may face exploitation by adult co-workers who force children to take on some of their tasks.

## 4. Contributing Factors

The reasons why children work are many and often complex. Those seeking to explain the use of child labor frequently point to traditional patterns of economic life and maintain that child labor is a time-honored and inevitable fact of life. They view poverty and survival as the driving forces and can envisage a significant reduction in child labor only in the context of industrialization and rapid economic development.

Advocates for children's rights and other expert observers often challenge this analysis as too simplistic. They note that economic and social conditions vary from region to region and country to country. They argue that while poverty may be one very important contributing factor, other factors must also be taken into consideration. Depending on the specific country, they point to:

Economic Self-Interest - Factory owners who overwork, underpay, and otherwise take advantage of vulnerable child workers.

Public Indifference - Politicians, media, non-governmental organizations, and other opinion makers who collectively treat child labor as a non-issue.

Public Policy - Inadequate resources devoted to primary education and export promotion policies that support firms and industries without regard to their impact on child labor.

Government Inadequacies - Labor inspectorates that lack authority, expertise, numbers, and accountability.

Government Corruption - Government officials who not only condone but in many cases personally benefit from child labor.

Societal Prejudice - Majority groups which consider child labor among less privileged part of the natural order.

In summary, children work for a variety of reasons. Some work simply to survive. Others, in the absence of free and compulsory schooling, lack a meaningful educational alternative. Tragically too many children - those in bonded labor - work to repay debts incurred by their parents. Still others are kidnapped, or recruited by unscrupulous agents to work away from home as a source of cheap labor in many industries. Nonetheless, most apologists for child labor cite poverty as the cause. However, the amount of money earned by most child workers is generally a small contribution to the family income. Although children work because they are victims of poverty, by working instead of being educated, they tend to perpetuate the cycle of poverty.

## 5. Responses: Governments, Nongovernmental Organizations, International Organizations

Governmental responses to the problem of child labor vary as greatly as do the industries in which children work. Some governments enact exemplary laws abolishing or at least regulating child labor. Others create a maze of regulatory schemes governing the employment of children fraught with loopholes and exceptions, too confusing to navigate, or with no intent they be enforced. There are governments which deny the existence of child labor and thus lack any initiatives to curtail the exploitation of child workers. There generally are no labor force statistics on economically active children under the age of 12, since almost everywhere this is illegal activity.

Too many governments contend that they lack the financial and other resources to successfully battle the exploitation of child labor. It can be said, however, that many lack the political will to enforce child labor laws, train labor inspectors, and implement health and safety regulations. Even in the area of compulsory primary education, where the relationship between the strength of the educational system and the lower levels of economic exploitation of children is commonly accepted, governments often fail. In such cases, non-governmental organizations with much fewer resources, attempt to fill the gap.

On the other hand, a number of governments are cooperating with international organizations such as UNICEF and the ILO to establish plans of action to combat child labor. In certain cases, this includes conducting national surveys on child labor, establishing more schools and non-formal education programs for children, and publicizing the hazards of child labor. There are critics who caution that governmental agreements with international organizations to develop anti-child labor programs use this relationship to deflect attention from the child labor situation in their countries. Nevertheless, cooperative programs with international organizations as well as local labor or non-governmental organizations represent progress. The Department of Labor has also



learned of projects between Labor Ministries and members of the business community to set up day care centers, schools and health facilities for child workers.

### **C. STRATEGY DEBATE: ABOLISH OR REGULATE CHILD LABOR**

Advocates for children's rights in the International Labor Organization, UNICEF, and various non-governmental organizations are divided as to the best strategy to address the problems of child labor. Many advocates recommend abolishing all child labor immediately; they argue that in the long run, developing countries would benefit both economically and socially from a public policy of strict enforcement of both compulsory education and minimum age laws. They maintain that many countries actually have the resources for greater investment in education but lack the necessary political will. They believe that strict enforcement of both compulsory education and child labor laws would be much easier to administer than a more differentiated system and would reduce opportunities for corruption.

Other advocates for children's rights - probably a majority - believe that the immediate abolition of all child labor is unrealistic and, in many cases, contrary to the interests of the children themselves. They recommend first abolishing the most abusive forms of child labor, and, in order to avoid a situation in which a reduction of child labor in one sector of the economy will simply lead to an increase in another, governments then should strictly regulate remaining forms of child labor to provide appropriate protections and benefits for those who must work to survive. They believe that the issue of child labor, especially in the more impoverished countries of the developing world, cannot be viewed in isolation but must be addressed in the broader context of social, economic, and educational development as a whole.

Policy differences aside, advocates for children's rights agree that certain abusive forms of child labor cannot be properly regulated but must be entirely abolished. These include child prostitution, bonded labor, and hazardous working conditions. Advocates view all these as unequivocally harmful, an exploitation of children, and urge governments and the world community as a whole to take immediate corrective action. Indeed, article 3(1) of ILO Convention 138 states that no one under 18 shall be admitted to employment or work "which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons. . . ."

### **D. REGIONAL OVERVIEWS**

#### **1. Asia**

Children are found all over Asia working in factories and workshops where they clean and pack food, weave carpets, sew and embroider garments, glue shoes, carry molten glass, cure leather, and polish gems, to name a few. Children are also the "invisible" workers in sub-contracting systems whereby they work in homes, small village workshops, or in tiny sheds. The International Labor Organization estimates that at least half of all child workers are found in South and Southeast Asia.

Conditions in these industries range from crowded garment factories, where the doors are locked and the children work for 14 hours, to small dusty earthen huts which can seat four children to a loom, knotting carpets in a pit for hours on end. At its worst, conditions, such as in glass factories, are medieval. Temperatures are unbearably hot, glass shards line the dirt floors where children and adults walk barefoot, and children carry heavy and piping hot rods of molten glass from one station to another.

Due to the sheer enormity of its population, and the large number of labor-intensive export industries, Asia

boasts perhaps the highest percentage of children working in industries which export to the United States. Simultaneously, a thriving non-governmental sector monitoring and publicizing the exploitation of child labor has developed. The combination of these factors has led to an increase in information on working children and the establishment of programs to support their health and welfare.

## 2. Africa

Unlike Asia, research on child labor in Africa is meager, particularly in export industries. Less national or international attention has been paid to children working in Africa, and trade between the United States and African countries in products typically made by children is minimal.

The ILO estimates that 25 percent of children between the ages of 10 and 14 work in Africa, and in some countries, close to 50 percent of children under 14 work. Most children hard at work in Africa sell and trade food on the streets, wash cars, work at kiosks, serve as domestic helpers, tan and dye raw leather products, fetch water, collect firewood, herd animals, and harvest crops on family farms or commercial plantations.

Only a minute portion of economically active children participate in the manufacturing or mining of products exported to the United States. Yet, the Department of Labor has learned that children are sewing garments, working in gold and diamond mines, weaving carpets, mining chrome, and processing sisal - all for export. Although the number of children employed in export sectors is still relatively small in Africa, there are fears that with growing industrialization and urbanization, the exploitation of child labor in the formal sector will grow.

## 3. Latin America

In most of Latin America child labor has only recently become an issue of concern. The growing volume of trade from many countries has opened their labor practices to international scrutiny and inspired nations to look more closely at child labor in their export industries. The ILO estimates that between 15 and 20 percent of children in Latin America work. Child labor in the manufacturing and mining sectors can generally be found in home-based garment and shoe part production, small-scale mining in remote areas, and to a lesser extent, in the maquiladoras of Mexico and Guatemala.

In Latin America, most children in export industries work in subcontracting enterprises. They are often not paid, or paid by the piece. Many of the children work with their parents in conditions that are generally poor and sometimes hazardous. Sub-contracting arrangements are also commonly found in small-scale mining operations. Children may be found in all aspects of the mining process including extraction, transport and separation of ore. In some instances, children are used to dig small tunnels and to mine in spaces that are too small for adults. Products of these mines, such as gold, emeralds, coal, cassiterite (tin ore), iron, and silver are sometimes exported through a larger mining company.

## 4. Europe

In comparison with other regions, Europe has relatively few examples of child labor in export industries. The high level of economic development, the implementation of advanced educational requirements and the conscientious enforcement of child labor laws generally eliminates child labor. Exceptions to these generalizations may be found in some of the southern European countries. Reports of more serious problems do appear in the press from time to time involving various immigrant communities.

So far there is no credible evidence that children in Central and Eastern European countries are currently working in the formal sector in general or in the export sector in particular. Nevertheless, given the deteriorating economic and social conditions in the area and the large number of children already working in the informal sector, the potential for increased child labor in the formal sector is very real and merits careful

monitoring.

## **E. INTRODUCTION TO COUNTRY PROFILES**

The Committees on Appropriations specifically sought information on child labor in industries and their host countries which export to the United States. Throughout the research process, the International Child Labor Study asked embassy officials to report on trade data related to manufacturing and mining industries. Trade research also was conducted using the U.S. Department of Commerce report, *"U.S. Merchandise Trade: Exports and General Imports by Country,"* and the Piers Imports Database, *Journal of Commerce* 1994. Where an industry was identified as manufacturing products using child labor, the International Child Labor Study attempted to determine whether such products were being exported to the United States. On the whole, no industry utilizing child labor was struck from the report solely because the amount of exports to the United States was below a certain level. If there was any amount of imports, the industry and country were included. On the other hand, it was outside the scope of the project to determine whether 1) a particular product made by children was exported to the United States; 2) which companies manufacture, export or import the product; or 3) where in the United States such a product is sold. Thus, no names of companies are cited in the report.

Many allegations contradicted one another, both in matters of fact and conclusion. In other instances, patterns clearly emerged. In many cases, allegations could not be substantiated with the resources available. In other cases parallel allegations by separate organizations provide widely different estimates on the number of children actually employed in a particular industry, with the difference between the estimates often greater than some of the estimates themselves. Thus, where it was determined that credible assertions of child labor existed, it was reported. Where contradictory evidence was found, it was noted. Where little information is known, but enough evidence suggests the existence of child labor, the report states that more research is needed. Where there is clear evidence of child labor, either through the preponderance of reports or eyewitness testimony, the report identifies that an industry employs children.

Finally, a number of countries are profiled in the report and the use of child labor in their export-oriented industries described in detail. The choice of which countries to highlight more often reflects access to credible information, combined with an active export sector, and not a judgement that any particular country values its children more or less than another. There are certain regions where facts about child labor have been documented for many years, and thus more information is available to report. There are other areas where it is believed that child labor in the export sector exists, but access to credible information has been difficult to compile due to 1) the limited time available to collect data; 2) the systematic intimidation of persons investigating situations of child labor; or 3) a lack of attention given the topic by indigenous groups.

In accordance with the mandate to identify industries and their host countries which utilize child labor in the manufacturing or mining of products exported to the United States, the Department of Labor has gathered credible information on the following countries: Bangladesh, Brazil, China, Colombia, Côte d'Ivoire, Egypt, Guatemala, India, Indonesia, Lesotho, Mexico, Morocco, Nepal, Pakistan, Philippines, Portugal, Tanzania, Thailand, and Zimbabwe.

## **F. CONCLUSION**

The International Labor Organization, in its testimony at the Department of Labor's hearings, described the complexity of child labor and issued an important challenge: "Few human rights abuses are so unanimously condemned, while being so widely practiced as child labor . . . There is no quick fix . . . Working children, all over the world, deserve better."

By gathering information about products routinely used in our daily lives that are produced by the sweat and toil of children, this report may be a vehicle to better understanding the magnitude of the problem and

developing solutions to bring this continuing human tragedy to an end.

# OVERVIEW

## I. INTRODUCTION

A survey of child labor worldwide finds that children are working in considerable numbers throughout many regions of the world. Each region differs, to some degree, in the extent of child labor and the specific sectors where children may be found working. There are also many similarities, including common areas where children's work contributes to the production of goods for export. In each region, the number of children working in industry or mining accounts for only a small percentage of total working children. In such cases, children commonly work in small-scale enterprises, home-based production, and small-scale mining operations which may be subcontracted by larger export-oriented firms and, to a lesser extent, in the larger factories of several countries. The country profiles following this section provide more specific information about the use of child labor in the manufacturing and mining of products exported to the United States.

From the information collected by the International Child Labor Study, this overview attempts to answer the following general questions:

Where are children found working in industry and mining?

What are some common forms of child labor?

Why do children work?

Why are children sometimes preferred to adult workers?

One question that the study cannot answer is, "How many children are working in the world?" This is because exact figures on the number of working children are generally unreliable.

Although the International Labor Organization (ILO) estimates that there are between 100 and 200 million working children worldwide, the organization is generally the first to acknowledge that no systematic or precise survey has been conducted. Furthermore, government statistics typically do not include economically active children below a certain age. Labor force surveys rarely cover illegal or clandestine work, home-based work, or work undertaken by refugee populations. The ILO efforts have, therefore, been turned to helping countries develop the statistical capability that hopefully will make a more reliable global estimate possible in the future.<sup>1</sup> Because statistical information on child labor is uniformly poor, this report makes no attempt to assess the actual number of children working in any industry. On the other hand, where there is general agreement - or significant discrepancies - on the estimated number of children working in any particular country or industry, it is reported.

## II. REGIONAL OVERVIEWS

### A. ASIA

The ILO estimates that of the world's working children, approximately half are found in South Asia (India, Bangladesh, Pakistan, Nepal, and Sri Lanka) and in South East Asia (the Philippines, Malaysia, Thailand,

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<sup>1</sup> *International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994) (Statement of the International Labor Organization).

Indonesia, Laos, Cambodia, and Vietnam).<sup>2</sup> According to one estimate, child workers constitute as much as seven percent of the population under 15 years of age and 11 percent of the overall labor force in some countries.<sup>3</sup> Although Asia may appear to have the most severe child labor problem, it may be due to the large number of documents and reports on the issue, as well as much-publicized campaigns and efforts on the part of international and local organizations to create public awareness about child labor in Asia. It should also be noted that there is a large volume of trade between Asian countries and the United States, particularly in the labor-intensive manufacturing industries. Such industries tend to be the major employers of child labor. In factories and workshops, they clean and pack food, weave carpets, and sew and embroider clothes. Bonded labor, a particularly exploitative form of child labor, is also practiced in the carpet industries of India and Pakistan, Nepal's agricultural sector, and possibly in the fish processing industry of Thailand.

Most working children in Asia, however, as in other regions are not found in industry, but rather on commercial plantations and family farms. In the cities, Asian children of all ages work in tea stalls, domestic service, food preparation, grocery shops, road construction, motor workshops, hawking everything from cigarettes to flowers, and as prostitutes. They are also commonly seen scavenging for and sorting garbage, and crushing bricks and stones.

## **B. LATIN AMERICA**

In Latin America, an estimated 15 to 20 percent of all children work. Exact figures on child workers in the region are not available because government statistics usually do not include children of all ages and children working in clandestine operations.<sup>4</sup> Some experts assert that the number of working children in Latin America is steadily growing.<sup>5</sup>

In Latin America and the Caribbean, some of the most severe forms of child labor occur in commercial agriculture. Most children who work in the fields assist their parents.<sup>6</sup>

In addition to plantation work, children work alongside their parents in workshops, mines, and homes. Brazilian children work alongside their parents under some of the most deplorable conditions, including forced labor and debt-bondage. Street children in some countries are amongst the most exploited and abused children in the world.<sup>7</sup> Export industries that hire children include subcontracted garment and shoe part production, small-scale mining in remote areas, and, to a lesser extent, the *maquiladoras* (assembly plants) in Mexico and Guatemala. Children usually participate in the industry and mining work force as "fringe" laborers without protection, full pay, or recognition for their work.

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<sup>2</sup> *34th Meeting of the ICFTU/ITS Working Group on Young Workers' Questions* (Lisbon: International Confederation of Free Trade Unions, September 21-25, 1993) [on file].

<sup>3</sup> *Child Labor: A Briefing Manual* (Geneva: International Labor Organization, 1986) 12.

<sup>4</sup> Juan Carlos Bossio, "Child Labor in Latin America and the World (Scope, Causes, Problems, Tendencies)," in *Regional Tri-Partisan Latin American Seminar on The Abolition of Child Labor and Protection of Working Children*, ILO and Ministry of Labor and Human Resources of Ecuador, PIACT/1991/2 (May, 1991) 3 [Translation of Spanish Text, on file] [hereinafter *Regional Latin American Seminar*].

<sup>5</sup> *Id.*

<sup>6</sup> Alec Fyfe, *Child Labor* (Polity Press, Oxford, 1989) 3 [hereinafter Fyfe].

<sup>7</sup> Fyfe at 3.

In most of Latin America, discussion of child labor is minimal but growing. The growing volume of trade has opened the region's labor practices to international scrutiny and has inspired Latin American nations to acknowledge, and attempt to address, child labor in their export industries. However, most countries in the region have not been sufficiently mobilized to investigate and discourage the work of children under the age of 14 and most governments have not effectively addressed the problem through enforcement of child labor laws or social programs and initiatives.

### **C. AFRICA**

The ILO states that in Africa, where one child in three has to work, the rate of child labor is the highest in the world. It is reported that children make up 17 percent of the continent's workforce.<sup>8</sup> Although these numbers express the magnitude of the problem of child labor in Africa, there are few studies which have examined the situation by country and even fewer which touch specifically upon child labor in industry and mining.

In African cities, children sell and trade food and other goods on the street, wash cars, work with their relatives at kiosks, or perform domestic chores in and around residences. In rural areas they fetch water, collect firewood, herd animals, and help harvest crops on family farms or commercial plantations. Field research has also identified children working, often under subcontracting arrangements, in the slowly developing sector of African manufacturing and mining industries that export products to the United States. Children under the age of 14 sew in garment factories in Lesotho; process sisal on plantations in Tanzania; pan and mine for gold in Zimbabwe and Côte d'Ivoire; knot carpets by hand in Egypt and Morocco; mine diamonds in Côte d'Ivoire; and mine chrome in Zimbabwe. There are credible allegations of children working in South Africa processing agricultural products in factories near commercial farms. It is reported that children are employed in sugar refining in Natal and in canning of apricots, apple juice, and other fruit juices in the Cape Province.<sup>9</sup> This area merits further investigation.

Although the number of children employed in export sectors is still relatively small, there are fears that with the growing industrialization and urbanization of African societies, the exploitation of child labor in industrial and mining enterprises will increase.<sup>10</sup> With a growing population of impoverished children, a continuing pattern of child labor in the informal sector, and an evolving industrial sector, Africa's near future could witness a growing number of children employed under dangerous and exploitative work conditions.

### **III. WHERE CHILDREN WORK IN MANUFACTURING AND MINING**

Large-scale enterprises, which are generally subject to government regulation and union scrutiny, rarely employ children under the legal minimum age. The majority of exports come from these "formal sector" businesses that have the productive, financial, and technological capacity to participate directly in international commerce. Exceptions to this include the garment industry in Bangladesh and Lesotho, and maquiladoras in Mexico and Guatemala, for example, where children are found in large-scale formal sector production. However, child labor

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<sup>8</sup> *Sale of children, child prostitution and child pornography: Report submitted by Mr. Vitit Muntarbhorn, Special Rapporteur*, U.N. Commission on Human Rights, U.N. Doc. E/CN.4/1994/84, January 1994, p.20.

<sup>9</sup> Interview with Sarah Christie, University of Cape Town, South Africa, by U.S. Department of Labor official (June 9, 1994).

<sup>10</sup> *African Regional Tripartite Workshop on Measures to Combat Child Labor* (Geneva: International Labor Organization, 1989) 2.

is predominantly found in the "informal sector."

The term "informal sector" is often not clearly defined, but it generally refers to relatively small enterprises where government regulations do not apply, or are not enforced. While many countries maintain that child labor exists only in the informal sector, and that children working in the informal sector do not contribute to the production of items made for export, this report finds otherwise. Some products from the "informal sector" ultimately reach the United States through subcontracting arrangements with small enterprises, home-based production, and small-scale mining.

### **A. SUBCONTRACTING**

In the developing world, shoe, garment, embroidery, furniture, and handicrafts industries often subcontract work to villages, homes, and small workshops.<sup>11</sup> Since there is little or no regulation of these smaller work sites, many export-oriented enterprises use this system to side-step national labor laws. Children are often paid by piece work, but the payments may go directly to the parents or older members of the community. Many of the children work with their parents in conditions that are generally poor and, in the case of the shoe industry, particularly hazardous. While some products made in informal settings are sold on the domestic market, others enter the stream of international commerce through a series of agents or middlemen.

The urban informal sector contains large numbers of small factories and workshops. It is a highly dynamic and rapidly expanding sector, often supplying products to larger firms for export. According to the ILO, it is possible that more children may be involved in the urban informal sector than the agricultural sector, because of rapid rural to urban migration and the decentralization of production units.<sup>12</sup> This is not necessarily the case in Africa or Latin America, where in many countries the urban industrialized sector is still in its infancy.

Examples of children working under subcontracting arrangements were identified in Asia, Africa, and Latin America. In Asia, children work in the subcontracted garment, furniture making, footwear, handicrafts, and carpet weaving industries. In Lesotho and Brazil, children contribute to the home-based production of shoes for export. In North African countries, where garments and carpets are part of an export industry, it is known that children and their families are involved in subcontracting arrangements.

Home-based production is a prevalent component of subcontracting. One of the few studies of sub-contracting arrangements in Latin America was conducted in Bolivia in 1983 by Violetta Sara-Lafosse. Of Sara-Lafosse's sample of seamstresses in the garment industry, 80 percent were women who worked out of their homes and half of these women were paid by the piece. Of those who worked out of their homes, 34 percent had their children help and, for those who worked 50 hours a week or more, 40 percent had their children's help.<sup>13</sup>

### **B. SMALL-SCALE MINING**

Sub-contracting arrangements are commonly found in small-scale mining operations in South America. Children work in the mines of Peru, Bolivia, Colombia, Brazil and Chile. Products of these mines, which include gold,

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<sup>11</sup> *Regional Latin American Seminar* at 7.

<sup>12</sup> *Still so far to go: Child labour in the world today* (Geneva: International Labor Organization, 1989) 13-14.

<sup>13</sup> *Cited in* Elena Ramos Tenorio, "El Trabajo infantil en empresas, microempresas y hogares en el Peru," in *El Trabajo infantil en el Peru* (ILO, 1993), 28.



emeralds, coal, cassiterite (tin ore), iron, and silver, are sold either directly to the domestic market or exported by way of a larger mining company. The involvement of children in small-scale mining has been documented in many areas, but the overall number of children working in this sector is unknown. Children, who generally work alongside their parents, can be involved in all aspects of the mining process including extraction, transport and separation of ore. Children often do the same work as the adults at the mines, but receive less pay.<sup>14</sup> Peru's gold mines in the Madre de Dios region are notable because the children work independently from their families under especially deplorable conditions. A 1991 report by CODENI, a children's rights organization in Peru, found that many young children are encouraged to emigrate from the high plains to work seasonally in the disease-ridden mines where they receive little or no pay for their work.<sup>15</sup>

Children also work in and around mines in Africa. In Côte d'Ivoire children dig, carry and wash soil alongside their parents in some gold and diamond mining areas. In Zimbabwe, children are involved in the mining of gold, chrome, and tin. Often times children are not directly involved in the mining, but instead sell food to the miners and perform various simple tasks around the mining sites. There is need for further investigation of child labor in the mining sector of Africa.

### **C. GARMENT FACTORIES**

Garment factories are the clearest example of formal sector factories which employ children. In Bangladesh, young girls of 11 to 14 are hired to serve as helpers in the garment industry. The girls work 12-14 hour days to sew buttons, cut threads, and carry cloth from station to station. Many of the garment factories are locked while the girls work. Similar situations of children working in the clothing industry may be found in Lesotho, Guatemala, Honduras, Portugal, and Morocco.

In a U.S. House Subcommittee on Labor-Management Relations hearing on June 7, 1994, a 20 year old woman who had recently been fired from a garment factory in Honduras for union activities, testified that:

*We are forced to work overtime, sometimes more than 12 hour shifts. If you refuse, you are punished. There are many girls as young as 13 who work in [the garment factory]. The sad part is that they are forced to work the same hours as everyone else. The doors are locked and you can't get out until they let you out. It can get very hot, sometimes 100 degrees, and there is no clean drinking water.*<sup>16</sup>

Conditions for child workers in garment factories vary, but employers and labor officials sometimes argue that the work carried out by young teenagers in garment factories qualifies as "light work." ILO Convention 138 permits "light work" for 12 and 13 year olds, so long as it is not likely to harm the health or development of young persons, and that it not prejudice their attendance at school, their participation in vocational orientation or training programs, or their capacity to benefit from the instruction received.<sup>17</sup> In the ILO's testimony at the

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<sup>14</sup> Information obtained from an ongoing Working Paper on Small-Scale Mining, International Labor Organization, Industrial Activities Branch [on file].

<sup>15</sup> Cited in "Life and death of children working in Peruvian gold mines," in *International Children's Rights Monitor*, Vol. 9, No. 2 (1992), pp. 8-10.

<sup>16</sup> Testimony of Dorka Nohemi Diaz Lopez, U.S. House Subcommittee on Labor-Management Relations Hearing, Wilkes-Barre, PA (June 7, 1994).

<sup>17</sup> *General Survey of the Reports relating to Convention 138 and Recommendation No. 146 concerning Minimum Age*, Report III (Part 4 B)(Geneva: International Labor Organization,

Public Hearing on International Child Labor, it was stated that, "(w)here children work long hours. . .they cannot qualify as "light" by the standards of Convention 138. Working too many hours not only invites exhaustion in children, but also does not leave them time to attend school."<sup>18</sup>

#### **D. MAQUILADORAS**

"Maquiladora" is the name given in Mexico and Guatemala to factories that assemble goods for export from imported materials. In Guatemala, it is reported that the vast majority of all maquilas produce garments.<sup>19</sup> In Mexico, items such as auto parts, electrical components, household appliances, apparel, furniture products, toys and sporting goods are produced in the maquilas.<sup>20</sup>

The majority of the work force in these factories are young women aged 14 to 20. However, there are instances of girls aged 12 and 13 working in the maquilas who have either lied about their age, never been asked their age, or have provided false birth certificates to their employers. Work conditions in the maquilas often include long hours and minimal pay.

Labor unions rarely exist and, in Guatemala, maquilas are known to fire all their employees and move elsewhere when workers begin to organize.<sup>21</sup> Although the incidence of child labor in the maquila sector has declined in recent years, children below the age of 14 still work in this sector. Evidence of child labor in the maquiladora sector is hard to obtain because underage workers are usually close to the minimum age of 14 and unwillingly to reveal their age for fear of losing their job. Greater detail is needed on child labor in the maquilas of Mexico and Guatemala.

#### **E. TRANSHIPMENTS**

The Committees on Appropriations requested information on what foreign industries are exporting products made in whole or in part by child labor to the United States. This report identifies certain industries which both utilize child labor and export directly to the United States. There are numerous allegations, however, of 1) finished products entering the United States through third countries; and 2) parts of products made by children shipped to a third country where they are then assembled into a finished product exported to the United States. For example, Germany is a major center for the distribution of carpets worldwide. It is possible that carpets made with child labor reach the United States through Germany. Additionally, children have been found curing or dyeing raw leather products in Africa, Asia, and Latin America. Reports indicate that sometimes the tanned leather is exported to another country to be made into items such as shoes, handbags, etc., and are then exported to the United States. The process of investigating and tracking such transshipment enterprises merits further

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1981) 73.

<sup>18</sup> *International Child Labor Hearings*, U.S. Department of Labor (April 12, 1994)(Statement of the International Labor Organization).

<sup>19</sup> Cindy Forster, "On the backs of Women: Organizing the Maquila factories," in *Report on Guatemala* (National Office in Solidarity with the People of Guatemala, Spring 1991) 6.

<sup>20</sup> "Worker Rights in Export Processing Zones," in *Foreign Labor Trends* (U.S. Department of Labor, 1990) 16. See also *Out of the Equation: Children and North American Economic Integration* (Philadelphia: Defense for Children International-USA November 1993) 1-2.

<sup>21</sup> Interview with Frank Larue, Center for Human Rights Legal Action by U.S. Department of Labor official (March 18, 1994).

investigation.

#### IV. COMMON FORMS OF CHILD LABOR

##### A. APPRENTICESHIPS

Apprenticeship is one of the most controversial forms of child labor. Theoretically, a child is learning the skills and disciplines of an occupation, which will be his or her lifelong trade or career. In reality, many employers exploit "apprentices" as free labor while purporting to teach skills to a new generation.<sup>22</sup> As one commentator states:

*Learning by doing is a sound educational principle, but its economic and moral implications must not be ignored; unless procedures are carefully monitored, the free child labor force creates adult unemployment, keeps adult wage levels under restraint, and encourages employers to increase the work load without having to worry about the cost of overtime.*<sup>23</sup>

According to the ILO, an apprenticeship is carried out under a form of contract of employment, usually within a formalized program under the supervision of national education authorities. As such, it is often the subject of extensive and detailed regulation.<sup>24</sup> The ILO goes on to say that "several of the countries for which information is available have minimum ages under 14 for apprenticeship."<sup>25</sup> There are also cases in which apprenticeships are excluded from the provisions of legislation concerning minimum age. Where laws and labor inspectorates have not clearly established the differences between "apprenticeships" and other forms of child labor, the beneficial effects of the legal apprenticeship system are diminished.

There are examples in Africa of industries and trades that exploit children under the guise of "apprenticeships." Many countries have laws that prohibit the employment of child workers under the age of 14, but still allow apprenticeships for younger children. In Egypt, for example, the employment of anyone under 12 is prohibited. Yet children as young as 7 or 8 regularly work as "apprentices" in carpet workshops and in the leather industry where conditions are particularly hazardous. Tasks performed by apprentices differ little from those performed by other child workers who are referred to as "family helpers."<sup>26</sup> In some areas, child workers are referred to as "apprentices" although none of the defining conditions of apprenticeship apply to them. These "apprentices" are often only paid when the employer sees fit and when he does, the pay is meager.<sup>27</sup> Though illegal, the

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<sup>22</sup> Roger Sawyer, *Children Enslaved* (New York: Routledge Press, 1988) 139.

<sup>23</sup> *Id.* at 139.

<sup>24</sup> *General Survey of the Reports relating to Convention 138 and Recommendation No. 146 concerning Minimum Age*, Report III (Part 4 B)(Geneva: International Labor Organization, 1981) 115.

<sup>25</sup> *Id.* at 117.

<sup>26</sup> Michel Bonnet, "Child Labor in Africa," *International Labor Review*, Vol. 132, No. 3 (1993) 386 [hereinafter Bonnet].

<sup>27</sup> *Child Labor in Tanzania*, (Geneva: International Labor Organization, 1992) 12.

practice is generally accepted as a way to learn a skill. Such situations are overlooked by labor inspectors.<sup>28</sup>

Apprenticeships in Asian countries can be facades where children do work which requires little or no qualifications. In pseudo-apprenticeship schemes, overwhelming evidence shows that children work without pay or for very little pay with meals and lodging deducted.

## **B. BONDED LABOR**

Debt-bondage of children (or children in slavery) is the most intolerable and exploitative form of child labor.<sup>29</sup> While it appears to be more pronounced in Asia, bonded labor also exists in other parts of the world. According to the ILO, bonded laborers are most commonly found in agriculture, domestic service, prostitution, and a variety of industries, including the manufacture of hand-knotted carpets.

Debt bondage is a modern form of slavery and recognized as such by the United Nations.<sup>30</sup> The current definition of debt bondage was formulated by the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, in 1956. The Convention states that debt bondage is, "the status or condition arising from a pledge by a debtor of his personal services or those of a person under his control as security for a debt . . ."

In India, where conservative estimates of adult and child bonded laborers start at 3 million,<sup>31</sup> debt bondage occurs when a person needing a loan and having no security to offer, pledges his/her labor, or that of someone under his/her control, as a security for the loan. In some cases, the interest on the loan is so high that it cannot be paid; in others, the laborer is deemed to repay the interest on the loan but not the capital. Thus, the loan is inherited and perpetuated, and becomes an inter-generational debt. Children are pledged as part of this system. The caste system in India reinforces and perpetuates debt bondage as landlords or money lenders are generally of a higher caste than those seeking loans.<sup>32</sup> Although bonded labor is widespread in rural areas among agricultural workers, there are increasing reports of child bonded laborers in both the service and manufacturing sectors of India.<sup>33</sup>

In Pakistan, debt bondage is called the "peshgi" system. The use of bonded laborers in Pakistan's carpet and brick kiln industries is well-known. Offers to lend money to poor families soon trap them because of high interest charges, manipulation of the books and low wages.<sup>34</sup> Numerous stories of physical abuse, including rape of women and abductions of family members, illustrate the immense feeling of powerlessness for those under

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<sup>28</sup> Interview with Khairy Hashem, Arab Labor Organization, by U.S. Department of Labor official (Cairo, May 1994).

<sup>29</sup> *IPEC: Reflections on the Past, Pointers to the Future* (Geneva: International Labor Organization, 1994) 33.

<sup>30</sup> Fyfe at 75.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 76.

<sup>33</sup> *Id.* at 77.

<sup>34</sup> *Discover the Working Child: The Situation of Child Labor in Pakistan* (Islamabad: UNICEF, 1990) 16.

the "peshgi" system. Such a story was reported recently by Human Rights Watch/Asia:

*Two years ago at the age of seven Anwar started weaving carpets in a village in Pakistan's province of Sindh. He was never asked whether he wanted to work. When I interviewed Anwar last November, he was knotting carpets for 12-16 hours per day, six to seven days per week. He was given some food, little free time, and no medical assistance. He was told repeatedly he could not stop working until he earned enough money to pay an alleged family debt. He was never told who in his family had borrowed money nor how much he had borrowed. Any time he made an error with his work, he was fined and the debt increased. Once when his work was considered to be too slow, he was beaten with a stick. Once after a particularly painful beating, he tried to run away only to be apprehended by the local police who forcibly returned him to the carpet looms.<sup>35</sup>*

Similarly, Nepali children and adults are frequently found in a form of bonded labor called "Kamaiya," where children herding animals and working in the fields are often abused and exploited by their "masters."<sup>36</sup> Nepali children are also recruited by a "naike" or labor contractor and forced to work in the carpet industry.

In some countries, recruiters comb the countryside paying poor parents to recruit their children for work in factories. For example, in Thailand, many child workers come from poverty-stricken parts of the northeast regions, having been sold by their parents, or made part of a debt bondage arrangement. Unscrupulous "employment agencies" often negotiate the transaction and deliver children to industries, like shrimp peeling, or prostitution. In the Philippines, two separate raids on a sardine canning factory found children, as young as 11, filling cans with sliced fish to repay the debt to the labor recruiter.<sup>37</sup>

In several Latin American countries, it is common to find children and their parents working on commercial plantations under conditions of forced or bonded labor. There were reports of Haitian adults and children working as bonded laborers under deplorable conditions in the sugar cane fields of the Dominican Republic.<sup>38</sup>

## **V. WHY CHILD LABOR EXISTS**

There are many reasons and rationalizations offered for child labor. For the most part, children are not presented with viable alternatives. Additionally, many families cannot afford the cost of sending their children to school, assuming that there is access to schools, or parents do not believe that the investment is worthwhile. Children also drop out of primary schools because they and/or their parents feel that education will not prepare them for the labor market. However, the supply of children available to work would not find employment if employers did not provide a sufficient demand for their work.

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<sup>35</sup> *International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994)(Statement of Human Rights Watch/Asia).

<sup>36</sup> *Bonded Labor in Nepal: Under Kamaiya System* (Kathmandu: Informal Sector Service Center (INSEC), 1992) 43.

<sup>37</sup> J. Carson, *Young's Town: Prison Camp and Slave Dungeon for Child Workers* (Manila: Kamalayan Development Center, Inc., vol. I, no. 1, July 1993) 1.

<sup>38</sup> *A Childhood Abducted: Children Cutting Sugar Cane in the Dominican Republic* (New York: Lawyers Committee for Human Rights, May 1991).

## **A. DEMAND FOR CHILD LABOR**

Research shows that many children are hired because they are more easily exploited than adults. Employers prefer children because they are docile, incapable of collective bargaining, and willing to work to support their family or simply to survive.

In a regional overview of child labor in Latin America, ILO officer Juan Carlos Bossio states that;

*Generally children are paid a salary that is lower than that paid to adults, there is no job security, they are not a part of the social security system and they are not paid the established wages, particularly for informal activities. Children are a source of work that is almost always flexible for the technically simple activities found in industry and service.*<sup>39</sup>

For the employers, children's work is an important means of minimizing costs. It is argued that small-scale industries and some export-oriented industries need low wage child labor (either through subcontracting or direct employment) to survive in the world market. There is little evidence, however, that the replacement of children by those over 14 years old would make these industries uncompetitive.

In Bangladesh, owners of garment factories use child labor because (1) children are docile, (2) they are cheaper, (3) they are highly motivated and efficient, (4) they do not form unions and their employment reduces the possibility of "hartal" or strike, (5) management of children is easy, and (6) the owners feel sorry for poor children and give them work.<sup>40</sup>

In some sectors, there is a general acceptance that children are uniquely suited for the work. This is best exemplified in the carpet and gem industries of India.<sup>41</sup> The argument is that nimble fingers can produce a greater number of knots in the weaving of carpets and polish tiny gems. But evidence suggests that child labor in these industries has more to do with the recruitment of cheap and malleable labor rather than a need for "nimble fingers."<sup>42</sup>

In Egypt, jasmine plantation owners prefer hiring children whose thin arms and small stature can reach deep and low into the plants to collect the leaves.

In Latin America, children are often employed to work in the fields of commercial plantations, sometimes because their small size is useful for the work. In Colombia, children are used in coal mining to dig small tunnels and mine spaces that are too small for adults.

## **B. SUPPLY OF CHILD LABOR**

### **1. Poverty**

The most common explanation given for the persistence of child labor in all parts of the world is poverty. As

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<sup>39</sup> *Regional Latin American Seminar* at 10.

<sup>40</sup> *International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994) (Statement of Dr. A.K. Abdul Momen, Women and Children International).

<sup>41</sup> Fyfe at 122.

<sup>42</sup> Fyfe at 124.

segments of the population get poorer, children are often compelled, or required, to work in order to contribute to their family income. Juan Carlos Bossio asserts in his 1991 article on child labor in Latin America;

*To confront poverty, members of a household have, in a concrete sense, established rules and practices that are designed to meet their basic needs. Such practices which can include child labor are viewed as natural, and its participants are culturally aware but have no major ideas of other options, as they do what they feel is necessary.*<sup>43</sup>

It is wrong, however, to assume that a child's contribution to household income is always significant. UNICEF in Latin America finds that "(r)arely does the proportion of household income generated by children exceed 10-20 percent."<sup>44</sup> Therefore, poverty may determine whether a child works, but it rarely ends a life of poverty for a family with children who work. Indeed, it may only perpetuate the cycle, as children do not complete their education, nor are they taught skills which enable them to leave an industry for higher-wage occupations.

Increasingly, experts on child labor and non-governmental organizations debate whether poverty causes child labor -- or the reverse. Some sources believe that children are better off working than living in abject poverty. Dr. A.K. Abdul Momen writes that, in developing countries, those who get a chance to work in a factory can at least have one meal a day -- albeit mostly of rice and salt, with additional vegetables and meat if they're lucky. A well-respected Sri Lankan law professor, Savithri Goonesekere, however, disagrees:

*I don't agree that poverty is the major cause because a large number of poor parents send their children to school. I think it is more a case of unwanted children. It is also a case of awareness. Parents think the child will be better off but don't realize she will probably be exploited. Employers also have to be aware it is morally wrong to employ a child.*<sup>45</sup>

As noted above, though children are often forced to work, their income barely supports themselves, not to mention their family. Moreover, there are many incidents of children working without any pay at all. For example, some allege that, for young children, work obstructs schooling, damages health, and severely restricts future earning capacity.<sup>46</sup> The vicious cycle continues to trap poor working children.

## 2. Education

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<sup>43</sup> *Regional Latin American Seminar* at 64.

<sup>44</sup> V. Colbert de Arboleda, James R. Himes, and Emilio García Méndez, *Child Labor and Basic Education in Latin America and the Caribbean: A Proposed UNICEF Initiative*, Innocenti Essays No. 6, UNICEF and International Child Development Center (May 1994) 3 [hereinafter UNICEF Initiative].

<sup>45</sup> Minoli de Soysa, "Sri Lanka Fights Child Labor With Stricter Laws," *Reuters* (April 1, 1993).

<sup>46</sup> *International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994) (Statement of International Confederation of Free Trade Unions). See generally Myron Weiner, *The Child and the State in India: Child Labor and Education Policy in Comparative Perspective* (Princeton: Princeton University Press, 1991). See also UNICEF Initiative.

Education is clearly one of the most important interventions against child labor.<sup>47</sup> While most governments agree that children should be removed from the labor force and required to attend school, there is much to be accomplished before this becomes a reality. Compulsory education is seen by some communities, especially those in the rural areas, as undesirable since elementary schools do not prepare children for work. The high drop-out rates in many countries surveyed suggest that parents and children do not regard school as useful. In addition, school fees and limited access to schools in some countries serve as strong deterrents to primary school enrollment.

The establishment of compulsory education is a necessary condition to reduce or abolish child labor. Without compulsory education governments are unable to enforce child labor laws. The phased extension of the age of compulsory education goes hand in hand with increased restrictions on the employment of children. If the school-leaving age is lower than the age of admission to employment, children are likely to illegally seek employment, making the enforcement of child labor laws more difficult. It is administratively easier to monitor school attendance than to monitor children in the workplace, and easier to force parents to send their children to school than force employers not to hire children. No country has successfully ended child labor without first making education compulsory and enforcing these laws. So long as children are free not to attend school, they will enter the workforce.<sup>48</sup>

One factor inhibiting school attendance is the solicitation of school fees or the requirement that parents must pay for school supplies such as textbooks, slates, and notebooks. A UNICEF report on child labor in Egypt found that most poor families cannot afford school fees, and, if they are able to afford it, are reluctant to make the investment because they see little return from education in terms of preparing their child for future employment.<sup>49</sup> In Latin America, many countries have recently begun to require the students to assume some of the costs of schooling and this has served to deter enrollment of the most impoverished children.<sup>50</sup> In South Asian countries which provide some level of free education, like Bangladesh and Nepal, parents are responsible for purchasing school supplies which can be a significant cost to less fortunate families. In comparison to other South Asian countries, Sri Lanka, with a nearly 90 percent literacy level,<sup>51</sup> provides free education up the university level, including free school supplies, mid-day meals and uniforms.

In addition, most countries do not have enough schools to accommodate all their children. In rural areas schools are often located a considerable distance away from the family. For all of these reasons, the increase in school enrollment in Africa, for example, has stopped and has even reversed in some countries during the past decade.<sup>52</sup>

It must be noted that many children are able to work and attend school simultaneously because, in many

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<sup>47</sup> *IPEC: Reflections on the Past, Pointers to the Future* (Geneva: International Labor Organization, 1994) 34.

<sup>48</sup> *International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994) (Statement of Professor Myron Weiner).

<sup>49</sup> Adel Azer and Nahed Ramzy, *Child Labor in Egypt*, (Egypt: UNICEF and the National Center for Social and Criminological Research (NCSCR), 1990).

<sup>50</sup> *Regional Latin American Seminar* at 71.

<sup>51</sup> *Country Reports on Human Rights Practices for 1993* (U.S. Department of State, February 1994) 1397.

<sup>52</sup> Bonnet at 377.



developing countries, the number of school hours and days are notoriously low.<sup>53</sup> For example, the recent IPEC study of the shoe industry in Brazil found that most children work up to eight hours a day in addition to attending school. During school vacations and weekends, the children generally work more than eight hours a day.<sup>54</sup> In Egypt, due to lack of educational funding, the school day is broken up into three separate shifts. As a result, many children are able to both work full-time and attend school.

### 3. Societal Attitudes

Child labor is also perpetuated by societal attitudes that say children should work to support themselves or their families. This attitude stems from the belief that by learning a skill at a young age, a child will learn a "trade" which will support him or her throughout life. Regardless of whether these contentions are valid, they are certainly indicative of current beliefs.

The general perception in Asia is that children should work to develop a sense of responsibility and develop a career, rather than become street urchins and beggars, or easy prey to sexual exploitation. In Pakistan, a survey on parental attitudes in Lahore found that parents pushed their children to work at an early age to avoid the dangers of vagrancy.<sup>55</sup> It is argued that child employment apparently teaches children of the poor to acquire moral and ethical attitudes and work habits at an early age.

There is a widespread belief in Africa that child labor is beneficial if it contributes to the well-being of the child, family, and the community. Child labor is understood to be a "form of education" which initiates the child into a path of communal life and work valued by many societies in Africa.<sup>56</sup>

## CONCLUSION

This is possibly the first effort to collect information on children in the export sector on a global scale. The sources cited in this report contributed vast knowledge and insight into the child labor situation throughout the world. These sources ought to be consulted in greater depth by anyone wishing to learn in more detail the reasons for child labor, the types of jobs children do, their conditions of work, and how child labor is perceived by different cultures.

Throughout this report reference is made to the need for additional research. For example, there is much discussion of the lack of accurate statistics on the numbers of child workers, as well as the real contribution of children's wages to the family income. On the other hand, there are many areas where sufficient information exists to have allowed governmental and nongovernmental organizations to develop programs and policies which effectively address the problem of child labor. Because of revitalized efforts on the part of UNICEF and the ILO, the growing public awareness of the economic exploitation of children, and the threat of various proposed trade sanctions or restrictions on products made from child labor, this is an opportune time for further research and coordinated action programs.

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<sup>53</sup> UNICEF Initiative at 23.

<sup>54</sup> Irandi Pereira and Raquel Licursi Benedeti Rosa, *Child Labor in the Footwear Industry in Franca* (informal translation of Portuguese version), (ILO-IPEC, 1993) 22.

<sup>55</sup> *International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994) (Statement of Omar Noman, Senior Research Economist, Oxford University).

<sup>56</sup> Bonnet at 377.

# COUNTRY PROFILES

The country profiles section contains reports on 19 countries which meet the criteria of the study, i.e. they have one or more identifiable industries "that utilize child labor in the export of manufactured products from industry or mining to the United States." The list is not exhaustive. The inclusion of a particular country is often a function of the availability of information and access to concerned local activists. Future studies would no doubt expand the list of countries and industries.

**COUNTRY PROFILES** are organized into four sections: *Overview*, *Child Labor in Export Industries*, *Legal System*, and *Programs and Efforts to Address Child Labor*. The *Overview* summarizes the major findings in a particular country. *Child Labor in Export Industries* lists the export industries identified as utilizing child labor and gives a general description of the nature and extent of child labor in each. *Legal System* reviews relevant child labor laws and local enforcement practices with special focus on minimum age laws, compulsory education laws, and international commitments. *Programs and Efforts to Address Child Labor* describes the policies and actions of government, international organizations, and local non-governmental organizations which address child labor issues.

## I. OVERVIEW

According to the Bangladesh Bureau of Statistics Labor Force Survey (1990), there are 5.7 million 10 to 14 year old children working in Bangladesh.<sup>1</sup> Another estimate puts the number at 15 million.<sup>2</sup> Nearly all the child labor in export industries is found in the garment industry. According to the Bangladesh Ministry of Labor, "children are found working in garments, bakeries and confectioneries, hotels and restaurants, transport, bidi (cigarette) factories, small engineering workshops, fish-processing, and other informal and unregulated sectors." There are also allegations of children catching and processing shrimp in Chittagong for export.<sup>3</sup>

## II. CHILD LABOR IN EXPORT INDUSTRIES

### GARMENTS

The garment industry, including those enterprises producing accessories for finished garments, is without doubt the most significant industry in Bangladesh which utilizes child labor and exports to the United States. It is also a relatively young industry, established in 1977 and developed rapidly after 1983. In 1993, Bangladesh exported nearly \$750 million in apparel to the United States.<sup>4</sup> The garment industry's main products include shirts, trousers, jackets, T-shirts, shorts, and briefs.<sup>5</sup> Garment workers make sports caps and sweat suits for export to the United States.<sup>6</sup>

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<sup>1</sup> This estimate does not include children working below 10 years of age. *See International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994) (Statement of Dr. Abdul Momen)[hereinafter Testimony of Momen].

<sup>2</sup> *ICFTU/APRO Sub-Regional Seminars on Child Labor* (International Confederation of Free Trade Unions/Asian and Pacific Regional Organization, October 1993) Chart 1 "Country Reports in a Nutshell."

<sup>3</sup> In numerous discussions with a Department of Labor official on a May 1994 visit to Bangladesh, individuals from all sectors noted that children were most likely employed in the processing of frozen shrimp for export. Since the industry is located in outlying areas far from Dhaka, no eyewitness reports were available. One report provided to the Department of Labor notes that European shrimp buyers have observed children in the industry. *A Report on Child Labor in Bangladesh* (Asian-American Free Labor Institute, 1994) 4 [hereinafter 1994 AAFLI Report].

<sup>4</sup> U.S. Department of Commerce, International Trade Administration, Office of Textiles and Apparel, *Major Shippers Report: Textiles and Apparel* (June 11, 1994).

<sup>5</sup> *Pilot Study on Child Labor in Dhaka* (International Confederation of Free Trade Unions/Asian and Pacific Regional Organization (ICFTU/APRO), December 1992) 3 [hereinafter 1992 ICFTU/APRO Report].

<sup>6</sup> Visit of Department of Labor Official to Dhaka, May 1994.

Estimates vary on the total number of factories and workers in the garment industry. One estimate puts the figures at 1,500 factories and over 700,000 workers, of whom 75 to 90 percent are women.<sup>7</sup> Representatives of the garment factories located in and around Dhaka frequently cite the figure of 1,800 factories registered with the BGMEA, with 1,000 actively producing garments, of which approximately 300 lead in production. However, these figures do not include a growing sub-contracting sector, which frequently goes unnoticed and unregulated.<sup>8</sup>

Children ranging in ages from eight to fourteen work in the garment industry.<sup>9</sup> It is reported that most of the children are girls with an average age of just over 13 years -- 10 percent of whom are already married.<sup>10</sup> Reported figures on the incidence of child labor in the garment industry vary from source to source. On the one hand, Dr. Farida Akhtar, Executive Director of the Srama Bikesh Kendra, claims that one-fourth of the workers in the garment industry are children.<sup>11</sup> On the other hand, in May 1994 the President of the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) stated that one percent of the total work force are children, numbering an estimated 8,000 - 10,000.<sup>12</sup> A recent study by the Asian-American Free Labor Institute (AAFLI) estimates that 25-30,000 children work in the industry, mostly in subcontracting industries.<sup>13</sup>

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<sup>7</sup> See M. Quddus, *Entrepreneurship in the Apparel Export Industry of Bangladesh*, (A paper presented at the Eastern Economic Association Conference, Boston, March 18-20, 1994) cited in Testimony of Momen.

<sup>8</sup> Another study estimates the total work force in the garment industry at 600,000. See Hameeda Hossain, "The Child Factor in the Garment Trade," *The Daily Star* (Dhaka), January 16, 1993. The BGMEA estimates the work force at approximately 800,000 persons. Interview with Mr. Redwan Ahmed, President, Bangladesh Garment Manufacturers and Exporters Association, by Department of Labor official (May 14, 1994). Based upon surveys of the garment industry, the Asian-American Free Labor Institute (AAFLI) reports that females constitute about 90 percent of all adult workers, and roughly 60 percent of all child workers. 1994 AAFLI Bangladesh Report at 9.

<sup>9</sup> Determining precise ages of child workers in Bangladesh, as in many developing countries, is sometimes difficult. Children rarely if ever have a birth certificate, and many will lie about their age for fear of being dismissed.

<sup>10</sup> Ghulam Kamal, Pratima Paul-Majumder, Khalilur Rahman, *Economically Active Children in the Garment Industry in Bangladesh*, (Dhaka: Associates for Community and Population Research, November 1993).

<sup>11</sup> "Harkin Bill a Reflection of Protectionism," *The Morning Sun* (Dhaka), August 9, 1993.

<sup>12</sup> Interview with Redwan Ahmed, President, Bangladesh Garment Manufacturers and Exporters Association and Member of Parliament, by Department of Labor official (May 14, 1994). This figure was supported by the Bangladesh Joint Secretary for Labor. Interview with Humayan Shamsul Kabir, Joint Secretary, Bangladesh Ministry of Labor, by Department of Labor official (May 17, 1994)[hereinafter Interview with Joint Secretary for Labor]. At the same time, the Joint Secretary for Export, Mr. Shoaib Ahmad, estimated the percentage of children in the garment industry at two to three percent. Interview with Mr. Shoaib Ahmad, Joint Secretary for Export, by Department of Labor official (May 16, 1994).

<sup>13</sup> Letter from Asian-American Free Labor Institute to Ambassador David N. Merrill, U.S. Ambassador to Bangladesh (July 30, 1994).

Still others maintain that child labor does not exist in the garment industry.<sup>14</sup> Some estimates suggest that the number of child garment workers may be near 55,000.<sup>15</sup> A June 1994 report of the International Confederation of Free Trade Unions lists the percentage as ranging from 20 to 40 percent.<sup>16</sup> Recent observations made during site visits by U.S. Departments of Labor and State officials suggests that anywhere from 5 to 20 percent of the work force are under age 14. In short, children are working in the garment industry, even though various observers differ as to the precise numbers.

As a result of international attention paid to child labor in the garment industry in the recent past, both the Government and the BGMEA have made efforts to encourage manufacturers to abide by the law which prohibits the employment of children under the age of 14. Fearing the imminent passage of the Child Labor Deterrence Act (otherwise known as the Harkin Bill), garment employers dismissed an estimated 50,000 children from the factories in the fall of 1993, approximately 75 percent of all children in the industry. No follow-up study has been undertaken to determine where the children went, but it is widely thought that most of them have found employment in other garment factories, in smaller, unregistered subcontracting garment workshops, or in other sectors. Observers estimate that approximately 75 percent of all child workers in the garment industry were dismissed following governmental and industry warnings. International organizations and NGOs pressured the industry to retain the remaining children in order to have an opportunity to establish "safety nets" for them.

In its written testimony to the U.S. Department of Labor's International Child Labor Hearing, the Embassy of Bangladesh noted operations are simple and technology is uncomplicated in the garment industry. Most of the work is performed by women. These women, in the absence of any guardian at home, bring along their children, particularly female ones, for security and day-care, to their places of work. U.S. Departments of Labor and State officials, AAFLI representatives, and other non-governmental organizations, however, have witnessed children on their way to work in the morning, without parents, carrying their tiffins (tin lunch boxes) and holding their time-cards. AAFLI's study found that very few children interviewed had an immediate family member (father, mother, brother, or sister) working in the same factory, but most had a friend or some distant relative who arranged for them to get the job.<sup>17</sup>

Garment factories are located in multi-storied buildings throughout Dhaka including Mirpur, Malibagh and Rampura districts (allegedly one of the worst areas), and the Free School District area. Working conditions in general in Bangladesh are far below western standards. On a par with other factory settings, garment factories are often dimly lit, with poor ventilation, and open for very long hours. However, some factories operate with good lighting and are not overly hot or crowded. The workers, mostly female, work without a break during their shift. Too often the factory doors are locked. Sometimes guards with keys stand by the locked gate; other times no one able to unlock the iron grating is near. Many times the locked gate is the only entrance or exit to a factory. The workers, including children, are frequently locked into their work place at the beginning of the

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<sup>14</sup> Interview with Mufleh R. Osmany, Foreign Secretary, Bangladesh Foreign Ministry, by Department of Labor official (May 14, 1994).

<sup>15</sup> Testimony of Momen, *citing* "Unwanted Garment Workers," *The Daily Star* (Dhaka), January 18, 1993, which puts the total number of child garment workers at 55,000. In 1993, UNICEF Representative Rolf Carriere was quoted as saying that Bangladesh's fast-growing garment industry employed some 50,000 children. "UNICEF Opposes Quick Abolition of Child Labor," *Press Association Newsfile*, May 18, 1993.

<sup>16</sup> "ICFTU launches major campaign to fight child labor," *ICFTU Dispatch*, June 14th, 1994; (International Confederation of Free Trade Unions) *Child Labor: The World's Best Kept Secret* (June 1994) 5.

<sup>17</sup> 1994 AAFLI Bangladesh Report at 10.

morning shift and not let out until the end of the workday, and in some cases not until the next day. Overtime hours occur during peak periods in the production cycle when manufacturers are rushing to fulfill their export quotas. AAFLI's 1994 survey of garment factories found that, like adult workers, children typically work 10 to 14 hours a day, with a half-day off on Friday.<sup>18</sup>

Children generally are given the less skilled tasks; adults are normally found operating the sewing machines and cutting fabric. Children are confined to cutting and trimming loose threads from completed garments, serving as "helpers" to the sewing machine operators and ironers, as stockers, transporters of garments from one station to another, and finishers who pack the products.<sup>19</sup>

In contrast to some other industries in the Indian sub-continent, children in the garment industry are indeed paid, albeit very little and many times late. Each factory worker must carry an employment identification card which gives the person's name, hours worked per day, and the daily signature of a supervisor. It is only by presenting this card that an employee can receive his or her monthly wage. In some cases, the employer withholds issuance of the card for the first month or two of employment, and the child is not paid during this period. Interviews with child workers found that supervisors regularly punish misbehavior such as talking while working by docking a day's pay. Eventually the child will earn a wage. Children in some factories do not receive time cards, and often are unaware of their compulsory working hours, monthly salary, or hours of overtime work. Since there are no trade unions for the child workers, they have no bargaining power or recourse to a grievance system.

In its study of 143 garment factories in Bangladesh, the Asian-American Free Labor Institute (AAFLI) reported the salary range is 300 to 500 taka per month (about \$7.69-\$12.82), except for the case of sewing machine operators or ironers who were reportedly paid 750-1,800 taka per month (\$19.23-\$46.15), and that the children are generally paid less than adults.<sup>20</sup> In a recent visit to Bangladesh, a Department of Labor official spoke with children who reported receiving anywhere from 250 to 700 taka per month.<sup>21</sup> Children also reported that, like adult workers, they are often paid two to four weeks late, and rarely paid extra for overtime.<sup>22</sup> In some factories, the child workers are appointed as "apprentices" or "helpers" for months and are not issued identification/time cards even after completing their apprenticeship period.<sup>23</sup> In some factories, the child workers are appointed as "apprentices" or "helpers" for months and are not issued identification/time cards even after completing their apprenticeship period.<sup>24</sup> There is no paid leave for holidays, and salary is deducted if the child is absent, or for unproductive periods when the electricity in the factory temporarily goes out. Girls under 15

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<sup>18</sup> *Id* at 9. A U.S. Department of Labor official confirmed this on a trip to Bangladesh after viewing numerous time cards stating that young girls worked from 7:30 or 8 a.m. until 10 p.m. at night. A *Toronto Star* article described children working in oppressively hot conditions, where the air was thick with cotton dust, there was constant clatter of machinery, and children were allowed only three-minute bathroom breaks. David Todd, "Factory 'slaves' beaten, tortured," *The Toronto Star*, July 5, 1992, p. A.

<sup>19</sup> 1994 AAFLI Bangladesh Report at 9.

<sup>20</sup> *Id.*

<sup>21</sup> Visit of Department of Labor official to Dhaka, May 1994.

<sup>22</sup> 1994 AAFLI Bangladesh Report at 9.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

years of age are preferred in these factories, as they work for less, are more likely to be unmarried with no children or domestic responsibilities, and cause no labor problems.

### III. LAWS OF BANGLADESH

#### A. NATIONAL CHILD LABOR LAWS

Bangladesh has some 25 special laws and ordinances to protect and improve the status of children. The current laws, however, present a confusing maze of conflicting provisions regulating child labor. Under existing law, the minimum age for employment may be variously interpreted as anywhere between 12 and 16. In 1993, the Government of Bangladesh created a National Labor Law Commission to revise and harmonize labor laws. The first draft of the recommendations, completed on March 31, 1994, proposes to eliminate the inconsistencies regarding the minimum age for employment by defining a child as "a person who has not completed his fourteenth year of age."<sup>25</sup> The draft further provides that "no child shall be employed or permitted to work in any occupation or establishment."<sup>26</sup> According to the Joint Secretary for Labor, these provisions, if enacted, would supersede and control all other labor laws related to children.<sup>27</sup>

Current laws include The Factories Act of 1965, which prohibits the employment of children below the age of 14 in any factory.<sup>28</sup> This law also stipulates that young workers (i.e. children and adolescents) are only allowed to work a maximum 5-hour day and only between the hours of 7 a.m. and 7 p.m.<sup>29</sup> The penalty for violation of this Act (Article 44(1)) is a fine up to 1,000 taka. The Employment of Children Act, 1938 (as amended in 1974) prohibits employment of children under 14 years in a factory.<sup>30</sup> Other laws include the Shops and Establishments Act 1965 and the Children's Act 1974 and Children's Rules, 1976.

The government agency responsible for enforcing child labor laws, the Bangladesh Department of Labor and Inspectorate of Factories, lacks sufficient resources, staff and logistical support to adequately perform the task of monitoring child labor laws.<sup>31</sup> The Government of Bangladesh also maintains that employers and factory owners/managers evade labor laws.<sup>32</sup> It should be noted, however, that the government has instructed the garment industry not to use child labor. The Labor Ministry was unable to provide information to the Department of Labor official regarding inspections of garment factories or prosecutions or convictions of factory owners for violating the Factories Act or the Employment of Children Act.

#### B. EDUCATION LAWS

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<sup>25</sup> *Id.* at 3; Interview with Joint Secretary of Labor.

<sup>26</sup> *Id.*

<sup>27</sup> Interview with Joint Secretary for Labor.

<sup>28</sup> *International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994) (Statement of the Government of Bangladesh).

<sup>29</sup> *Country Reports on Human Rights Practices in 1993*, (U.S. Department of State, February 1994) 1331 [hereinafter *Country Reports*].

<sup>30</sup> 1992 ICFTU/APRO Report at 9.

<sup>31</sup> *Child Labor in Bangladesh: Views of the Government of Bangladesh* (submitted to UNICEF, author not identified, August 1993) para 3.7 [on file].

<sup>32</sup> *Id.* at para. 3.8.

Under Bangladesh law, children must attend school through the fifth grade.<sup>33</sup> Primary education is free and compulsory, although not compulsory for girls in the rural areas. The implementation of compulsory education has fallen short in part because parents keep their children out of school, finding school accessories too expensive or preferring their children to be working for money or helping with household chores. The current government policy is to implement compulsory education in 50 percent of the country by 1995 and 100 percent by the year 2000.<sup>34</sup>

The 1994 report by the Asian-American Free Labor Institute, however, maintains that, despite this policy on compulsory education, there has not been much progress.<sup>35</sup> The Government of Bangladesh contends that it does not have the resources.<sup>36</sup> A UNICEF sponsored study on non-formal education and child labor in Bangladesh noted that parents find purchasing uniforms, books, and other supplies a significant burden, especially for poor families,<sup>37</sup> and presumably a major disincentive for sending their children to school rather than to work.

### *C. INTERNATIONAL CONVENTIONS*

Bangladesh is a party to ILO Convention No. 59 Concerning Minimum Age for Admission to Employment in Industry and the U.N. Convention on the Rights of the Child. Bangladesh has not ratified ILO Convention No. 138 Concerning Minimum Age for Admission to Employment.<sup>38</sup>

## **IV. PROGRAMS AND EFFORTS TO ADDRESS CHILD LABOR**

In the past year or two, there has been significant action taken by the Government of Bangladesh, the BGMEA, international organizations, and NGOs to create solutions and alternatives for child workers. In its written testimony to the U.S. Department of Labor, the Government of Bangladesh listed official efforts either taken or planned for the future. Some of the efforts include a realization of the objectives of the Rights of the Child Convention (a National Program of Action for Children was launched on June 2, 1992); examination by the National Labor Law Commission on existing labor laws with the goal of updating and consolidating them into a "Labor Code,"; strictly enforcing child labor laws; continuing to publish notices containing the provisions of laws relating to child employment in daily newspapers and broadcasting prohibitory messages over TV and radio; and distributing posters prohibiting child labor.

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<sup>33</sup> *Country Reports* at 1331.

<sup>34</sup> 1992 ICFTU/APRO Report at 12.

<sup>35</sup> 1994 AAFLI Bangladesh Report at 3.

<sup>36</sup> *Country Reports* at 1331.

<sup>37</sup> Babar Sobhan, *Non-Formal Primary Education and Child Labor: Opportunities and Obstacles* (study conducted for UNICEF-Bangladesh, n.d.) 7 [on file].

<sup>38</sup> *Lists of Ratifications by Convention and by Country* (as at December 1992) (Geneva: International Labor Office, 1993).



The government is cooperating with international organizations such as UNICEF to develop non-formal educational and other support programs for working children. The government has reportedly also agreed to allow the ILO to conduct a national survey of child workers.

On July 4, 1994, the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) announced that it would eliminate child labor from all garment factories by October 31, 1994.<sup>39</sup> On May 5, 1994, Mr. Redwan Ahmed, president of the BGMEA, announced that in addition to setting up a hospital for garment workers, the BGMEA also planned to give informal education, professional training, and to provide health care facilities to the employees of the apparel sector by setting up seven clinic/hospitals and seven training center/schools in Dhaka and Chittagong.<sup>40</sup>

On many occasions both publicly and privately, the BGMEA has expressed its willingness to work with NGOs, international organizations and the government to establish programs for children. Although the BGMEA presumably has a vital interest in ensuring that the garment industry is free of child labor, as of this writing, only one of the above-mentioned programs or cooperative efforts proposed by the BGMEA recently have been implemented. At its July 4, 1994 news conference, the BGMEA inaugurated one small school/clinic for children in Dhaka. Other programs or cooperative efforts recently proposed by the BGMEA have not yet been implemented.

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<sup>39</sup> American Embassy-Dhaka, unclassified portion of telegram no. 4925, July 7, 1994.

<sup>40</sup> BATEXPO Brochure '94, 4 [on file]. Ironically, in April 1994 the BGMEA stated for the record that "at the moment there is no child labor in our garment factories." "Bangladesh Garment Industry Denies Child Labor," *Reuters*, April 13, 1994.

There has been tremendous public reaction in Bangladesh to the proposed Child Labor Deterrence Act,<sup>41</sup> which, combined with serious concern for the welfare of the children, has resulted in the formation of a child labor coalition, consisting of representatives from international organizations, NGOs, labor unions, various government ministries, and representatives of the garment industry. The work is being spearheaded by UNICEF, which has researched and reviewed a number of private non-formal education programs for possible use in setting up schools for working children. In addition, numerous child welfare and education NGOs are active in the effort to provide assistance to working children.

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<sup>41</sup> If enacted, the Child Labor Deterrence Act, proposed by Senator Tom Harkin and Rep. George Brown, would ban the importation to the United States of products which are manufactured or mined in whole or in part by children. Since the Bangladesh garment industry is wholly export-oriented, the threat of a U.S. import ban had a significant impact in the country. Some of the articles describing the debate include: Sharier Khan, "Harkins Bill: BGMEA to open schools for working children," *The Daily Star* (Dhaka), June 24, 1994; "The Child Workers of Bangladesh: A Proposed US Bill Against Child Laborers, Making Life Even Tougher for Youngsters," *The Toronto Star* (Toronto), January 9, 1994; O.H. Kabir, "Harkin's Bill and American Students," *The Daily Star* (Dhaka), October 3, 1993; Nur Khan Liton, "Fair Deal for the Kids: Harkin's Law will do more harm than good to Bangladesh's Working Children," *Dhaka Courier* (Dhaka), September 10, 1993; Nur Khan Liton, *The Harkin Bill and Our Reality* (paper presented at the Coordinating Council of Human Rights in Bangladesh, September 5, 1993); "BGMEA Can Help Divert Adverse Effects of Harkin Bill," *Daily Star* (Dhaka), August 3, 1993; "Harkins Bill and the Garment Industry," *Commerce and Industry*, August 1993; "Unwanted Garment Workers," *The Daily Star* (Dhaka), January 18, 1993; Hameeda Hossain, "The Child Factor in the Garments Trade," *The Daily Star* (Dhaka), January 16, 1993; "Inhuman Approach to Restrict Child Labor," *The Morning Sun* (Dhaka), January 16, 1993; "Garment Industries Men Urged to Abide by Existing Labor laws," *The Morning Star* (Dhaka), January 1, 1993; "AAFLI BGMEA to solve problems of child labor," *The Bangladesh Times* (Dhaka), December 31, 1992; "BGMEA warns members of dire consequences of employing children," *The Telegraph* (Dhaka), December 31, 1992; "50,000 child laborers in garments factories may lose jobs," *The Daily Star* (Dhaka), December 31, 1992; *Harkin Bill: Bangladesh Perspective*, prepared by the Bangladesh Manobadhikkar Samonnoy Parishad-Dhaka (on file); Dr. Ali Riaz, *The Political Economy of the Child Labor Deterrence Act 1993*, Department of Mass Communication and Journalism-Dhaka (on file).

## I. OVERVIEW

A 1994 study by the Brazilian Institute for Geography and Statistics (IBGE) found that approximately 2 million, or 14.3 percent of children between 10 and 13 years of age are working.<sup>1</sup> There has been thorough documentation of some 1,300 children working in the footwear industry, and less detailed information on children working in the textile, garment, and tin industries. All of these industries export to the United States. There have also been allegations of children working, directly or indirectly, in numerous other export industries which require further investigation.

## II. CHILD LABOR IN EXPORT INDUSTRIES

### FOOTWEAR

A study of the shoe manufacturing industry in the city of Franca, Sao Paulo, was conducted by the Central Único dos Trabalhadores ("CUT" - National Trade Union Congress) with funding from the ILO's International Program for the Elimination of Child Labor (IPEC) in 1993. The IPEC report focussed on the condition of people working for independent contractors or subcontractors in the Franca shoe industry. Of the 7000 persons working in the subcontracting of shoe parts, 1,300 were children under the legal age of 14.<sup>2</sup> Shoes are one of the leading exports from Brazil,<sup>3</sup> with the industry in Franca contributing significantly to the country's footwear production. The United States imported over \$1.4 billion in footwear from Brazil in 1993.<sup>4</sup>

An English translation of the conclusion of the IPEC report reads as follows:

*There does not exist on the part of these [child] workers any knowledge of their rights and, on the part of the employers, any observance and compliance with the labor norms and collective accords. It is child labor, thus, exposed to all possible forms of exploitation and subjugation.*<sup>5</sup>[informal translation]

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<sup>1</sup> American Embassy-Brasilia, unclassified telegram no. 02523, March 30, 1994 [hereinafter Brasilia 02523].

<sup>2</sup> American Embassy-Brasilia, unclassified portion of telegram no. 09470, December 9, 1993 [hereinafter Brasilia 09470].

<sup>3</sup> *The World Fact Book* (U.S. Central Intelligence Agency, 1993) 54-55 [hereinafter *The World Fact Book*].

<sup>4</sup> U.S. Department of Commerce, Bureau of Census, *Merchandise Trade - Imports by Commodity* (June, 1994).

<sup>5</sup> Irandi Pereira and Raquel Licursi Benedeti Rosa, *Child Labor in the Footwear Industry in Franca* (Geneva: International Labor Organization, 1993) 30 [informal translation into English from Portuguese version] [hereinafter IPEC Report].

Despite the fact that child workers in the shoe industry generally work and live with their parents, they continue to work under dangerous, unhealthy, and exploitative conditions.

Children between the ages of seven and fourteen are found working for independent contractors who have been sub-contracted by the larger firms to produce leather shoe parts. The production takes place in homes and in improvised, and partially mechanized, operations in garages, yards, and verandas. The children work up to eight hours per day and more during school vacations, cutting, trimming, folding, gluing, marking, hand-sewing, hammering studs, and sanding the soles of shoes.<sup>6</sup> The work areas are often crowded, poorly lit, noisy, and poorly ventilated. The children are exposed to various health hazards such as the toxic and addictive fumes of the shoe glue. These hazards may cause dermatitis, asthma, bronchitis, and injuries from work tools.

The independent shoe manufacturers of Franca made an agreement to eliminate child labor in the industry in June 1993. This agreement has not yet resulted in a withdrawal of child laborers from the industry.<sup>7</sup>

## TEXTILE AND GARMENTS

In 1993, the United States imported \$289 million in textiles from Brazil.<sup>8</sup> Several sources have reported the existence of child labor in the weaving and piecework sewing tasks of the textile and garment industries. However, no thorough documentation of the work of children in this sector has been found. In 1988, the ILO Committee of Experts stated that 17 percent of all children working in Brazilian industry are involved in textile and garment production.<sup>9</sup> A government survey of child labor in 1990 by Ana Lucia Saboia and Silvia Reise Bergman of the Brazilian Institute of Geography and Statistics (IBGE) found that more than half of the children under the age of 14 are employed in the clothing and textile industry as weavers who sometimes operate heavy industrial machinery.<sup>10</sup>

## TIN

A report by the Brazilian National Department for Mineral Production on the Bom Futuro Cassiterite (tin-ore) mine in the state of Rondonia states that, ". . . of some 3,500 people working at the mine in 1991, 600 were children and adolescents."<sup>11</sup> The General Confederation of Workers (Confederação Geral dos Trabalhadores - CGT) labor central reported in 1991 that women, adolescents, and children can be found manually digging exploratory tunnels and searching for cassiterite veins in the mud of mining areas of Amazonia which are rife with malaria. The CGT report concluded that, "the entire process of mineral extraction at the mine of Bom Futuro systematically violates trade unions and human rights as defined by the International Labor

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<sup>6</sup> *Id.* at 22.

<sup>7</sup> *Country Reports on Human Rights Practices for 1993* (U.S. Department of State, February 1994) 383 [hereinafter *Country Reports*].

<sup>8</sup> U.S. Department of Commerce, International Trade Administration, Office of Textiles and Apparel, *Major Shippers Report: Textiles and Apparel* (June 11, 1994).

<sup>9</sup> ILO Committee of Experts Report 1988, 53, cited in Lammy Betten, *International Labor Law: Selected Issues* (Boston: Kluwer Law and Taxation Publishers, 1993) 302-303.

<sup>10</sup> "Child Labor Accounts for 18 Percent of Work Force," *Associated Press*, January 2, 1994.

<sup>11</sup> Alison Sutton, *Slavery in Brazil* (London: Anti-Slavery International, 1994) 93 [hereinafter *Slavery in Brazil*].

Organization."<sup>12</sup> Cassiterite is a tin-ore used in the production of tin, one of Brazil's primary exports. The United States imports tin ingots from Brazil.<sup>13</sup>

## OTHER EXPORT INDUSTRIES

There are additional export industries which have been alleged to use child labor, including the wood pulp, handicrafts,<sup>14</sup> electronics, leather-processing, and gold mining industries. The ILO, meanwhile, intends to investigate industries in Brazil suspected of using child labor including: women's shoes in the south, mining and metallurgy in the Amazon region, distilleries in the center-west, ceramics, plastics, watches, and eyeglasses.<sup>15</sup>

There have been numerous reports of terrible conditions of child labor in the charcoal industry. Several recent magazine articles in Brazil as well as the ASI report, have provided significant detail of child labor in this industry. Charcoal production takes place in the Carajas region of Amazonia under subcontracted arrangements to the pig iron smelters who use the charcoal to feed their kilns. The ASI report states that children work alongside their parents and are involved in raking up the charcoal, putting it into sacks, and putting it into the "mud cooling" of the kilns.<sup>16</sup> Many of the workers in this industry, including children, can be classified as debt-bonded or forced labor. Carlos Ferrari, Vice President of the CUT labor central in the state of Mato Grosso do Sul, stated in a recent interview that;

*People who have tried to escape have been murdered - 15 bodies were found by the military police in a hidden cemetery . . . [The workers] must buy inferior quality food and all supplies at over-priced company stores and are constantly in debt. The father is the one who is contracted and then is forced to put his children to work to pay off the debt . . . Until recently, authorities denied the entire situation. When labor inspectors came to visit a site, they were given a party and the workers were hidden.*<sup>17</sup>

Although charcoal is not exported, some may be sold to iron smelters which produce for the export market. It is difficult to identify the employer of the subcontracted charcoal laborers in order to establish the link to exported iron. According to Anti-Slavery International, "(t)he metallurgy companies provide the charcoal burners with the 'technical structure', in this case the kilns and wood, but try to maintain an arms-length relationship with workers through the use of sub-contractors."<sup>18</sup> This subcontracting arrangement is common

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<sup>12</sup> Confederação geral dos Trabalhadores, *Mechanismos da Violência no Brasil: Um Relatório Especial, Violação dos Direitos Humanos e Sindicais* (São Paulo, 1991), cited in *Slavery in Brazil* at 93.

<sup>13</sup> Search of 1994 Journal of Commerce, Piers Imports (US Ports) File 573 (June 1994).

<sup>14</sup> Brasília 09470.

<sup>15</sup> Terri Lapinsky, *The Place for Children is in School: Child Labor in Brazil's Export Industries* (May 1994) 12 [on file] [hereinafter Lapinsky]. Information from an interview with Irandi Pereira, a principal CUT researcher for IPEC (May 20, 1994).

<sup>16</sup> *Slavery in Brazil* at 66.

<sup>17</sup> Lapinsky at 22. From interview with Carlos Ferrari, Vice President of CUT (May 22, 1994).

<sup>18</sup> *Slavery in Brazil* at 69.

in many industries in Latin America and contributes to what can be referred to as "invisible child labor." Further research is needed.

The United States currently imports iron filings, ore, and pellets from Brazil.<sup>19</sup>

### III. LAWS OF BRAZIL

#### A. NATIONAL CHILD LABOR LAWS

The basic minimum age for work in Brazil, as established in the Article 227 of the 1988 Constitution, is 14.<sup>20</sup> Exceptions to this law apply to children, at the minimum age of 12, who work within the context of regulated apprenticeships, and for those who are authorized by a judge to work. The Statute on Children and Adolescents (Law 8069-90), which became law in July 1990, adds to the Constitutional provisions which outline the qualifications for an apprenticeship, specific rights to which children and adolescents are entitled, and the designation of the necessary educational, developmental, and professional components for inclusion into an employment or training program for minors.<sup>21</sup>

The Ministry of Labor is responsible for enforcing the child labor laws. The IPEC report concludes that there is a shortage of labor inspectors and too few inspections. Specifically, the enforcement of child labor laws in small enterprises, including the shoe industry, is minimal and ineffective.<sup>22</sup> In addition, exceptions to the minimum age laws are frequently granted by judges for apprenticeships although there is a lack of regulation of apprenticeship status.<sup>23</sup>

#### B. EDUCATION LAWS

Brazilian law provides for free and compulsory education between the ages of seven and fourteen.<sup>24</sup> However, it is estimated that more than five million children of the ages required to attend are out of school.<sup>25</sup> In the northeast, the poorest region of Brazil, close to 52 percent of workers were found by the recent IBGE study to have completed no more than four years of elementary school; in urban areas this was true for 10 percent of workers.<sup>26</sup> UNICEF's 1994 edition of *State of the World's Children* reports that at 22 percent, Brazil has one of the lowest primary school completion rates in the world.<sup>27</sup> These numbers reveal that Brazil's legal provisions for compulsory primary education have not been effectively enforced.

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<sup>19</sup> Search of 1994 Journal of Commerce, Piers Imports (US Ports) File 573 (June 1994).

<sup>20</sup> *Country Reports* at 382.

<sup>21</sup> Antonio Carlos Gomes da Costa, *The Statute on Children and Adolescents and Child Labor in Brazil: Background, Present State, and Prospects* (ILO, forthcoming) [on file].

<sup>22</sup> IPEC Report at 21.

<sup>23</sup> Lapinsky at 38.

<sup>24</sup> *Conditions of Work Digest Volume 10* (Geneva: International Labor Organization, 1991) 35.

<sup>25</sup> Lapinsky at 42.

<sup>26</sup> Brasilia 02523.

<sup>27</sup> *State of the World's Children 1994* (UNICEF, Oxford University Press, 1994) 70.

Brazil is party to the UN Convention on the Rights of the Child.<sup>28</sup> The Government of Brazil has not ratified ILO Convention No. 138 Concerning Minimum Age for Admission to Employment. Brazil ratified ILO Convention No. 5 Concerning Minimum Age for Admission to Employment in Industry in 1934, but not Convention No. 59 -- the more recent convention on minimum age in industry.<sup>29</sup>

#### IV. PROGRAMS AND EFFORTS TO ADDRESS CHILD LABOR

By signing the Memorandum of Understanding (MOU) with the ILO's International Program for the Elimination of Child Labor (IPEC), the Government of Brazil made the statement that it intended to cooperate with the IPEC initiative to eradicate child labor in Brazil. The director of ILO-Brazil, Mr. Wilson Vieira dos Santos, recently said that each Brazilian state has promised to sign a pact on child labor elimination before the end of 1995.<sup>30</sup> With regard to debt-bondage and forced labor, it was not until 1993 that the Ministry of Labor formally admitted the existence of the problem but, since that time, the government's attempts to enforce the laws and abolish these practices have been limited.<sup>31</sup> Despite past weaknesses in handling the issue of child labor, many Brazilians are encouraged by the broad-based support for a recently launched collaborative initiative to address child labor.

The collaborative campaign launched in March 1994 by the ILO, UNICEF, a prominent Brazilian social activist Herbert de Souza (Betinho), and others is encouraging. The purpose of this campaign is to raise the public awareness of the risks involved, to pressure the government to maintain and advance child labor legislation, to help employers and unions monitor child labor violations, and to enact collective bargaining accords for the elimination of child labor. The campaign aims to bring together federal, state, municipal, business, and labor elements to address all of these areas.<sup>32</sup>

The individual trade unions have generally not taken up child labor as a priority, but the CUT labor central and the Shoeworkers Union have been active in advocating the elimination of child labor for those under 14 years of age as well as safe, registered, and legally-protected work for minors aged 14 to 18.<sup>33</sup> There has also been some collaborative research and activity on child labor between the CUT and the Catholic University of Sao Paulo. In addition, three major labor centrals (CUT, CGT, Forca Sindical) and the Confederation of Agricultural Workers (CONTAG) have been working with the ILO to identify other rural and urban sectors to target in future studies.<sup>34</sup>

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<sup>28</sup> *Country Reports* at 1403.

<sup>29</sup> *List of Ratifications by Convention and by Country (as at 31 December 1992)* (Geneva: International Labor Organization, 1993).

<sup>30</sup> Lapinsky at 41. From an interview with Wilson Vieira dos Santos in Brasilia (May 25, 1994).

<sup>31</sup> *Slavery in Brazil* at 22.

<sup>32</sup> Brasilia 02523.

<sup>33</sup> IPEC Report at 42.

<sup>34</sup> Lapinsky at 11.

In Brazil there are a large number of non-governmental organizations (NGOs) concerned with the promotion of child rights. These organizations proliferated due to the urgent situation of street children and several have also been active in advocating the protection of child workers' rights.<sup>35</sup> An NGO coalition, DCA Forum in Defense of the Rights of Children and Adolescents, was created in 1990 to assist in the passage of the Statute on Children and Adolescents. This group still exists and publishes a free periodical on the issue.<sup>36</sup>

It has been asserted that, with the exception of the ABRINQ Foundation's effort, there has been a general lack of interest among the business community to join in the effort to address child labor.<sup>37</sup> ABRINQ, which is part of the Brazilian Toy Manufacturers Association, has been active in legal reform initiatives to benefit children as well as contributing to a report on child labor in collaboration with ILO-Brazil.<sup>38</sup>

The ILO's IPEC Action Program began in 1992 with the Brazilian Ministry of Labor's approval and partnership. Several of the groups who were instrumental in drafting the Statute of the Child and the Adolescent have been involved in IPEC's program which includes efforts to research, publicize, and mobilize different sectors to address child labor. In addition, IPEC is training trade unionists to collect and disseminate information on the situation of child workers as well as financially supporting programs for at-risk children.<sup>39</sup> A separate joint effort by UNICEF and ILO-Brazil is focused on pushing for universal access and retention of children in primary school as the best solution for the elimination of child labor. Mario Ferrari, the Senior Program Officer of UNICEF in Brazil, summed up the UNICEF initiative as "working on the demand side of education to have society strengthen the demand."<sup>40</sup>

The issue of child labor has only recently become the subject of broad based mobilization, but this is an encouraging step in the direction of eliminating child labor.

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<sup>35</sup> *IPEC Implementation Report 1992-93* (Geneva: International Labor Organization, 1993) 10-11.

<sup>36</sup> Lapinsky at 46.

<sup>37</sup> Lapinsky at 48. Wilson Vieira dos Santos, Director of ILO-Brazil, stated in an interview that most businessmen are "not yet interested" in mobilization efforts against child labor.

<sup>38</sup> Lapinsky at 49.

<sup>39</sup> IPEC Report at 63.

<sup>40</sup> Lapinsky at 45.



## I. OVERVIEW

The number of children working in China is not known. Because of China's repressive political system, it was not possible to obtain any information directly from China. There are no Chinese non-governmental organizations (NGOs) active in this area, and foreign NGOs do not have access. Accordingly, it was impossible to corroborate or reject allegations by various labor and human rights organizations that children are working in export industries which produce for the United States market. It was also impossible to assess how diligently the Chinese Government enforces child labor laws or prosecutes child labor law violators, as well as to determine efforts by non-governmental organizations to address child labor in China.

The American Embassy in Beijing notes that "most independent observers agree with the assessment of Chinese officials that China's industrial child labor problem is relatively minor."<sup>1</sup> On the other hand, some China-watchers infer growing child labor problems in China, particularly in areas around Hong Kong, based on a high dropout rate from school and the rapid expansion of foreign investment in export-oriented enterprises. Meanwhile, an official from the Chinese Ministry of Labor admitted that the employment of children was "very serious" in China.<sup>1</sup>

According to the State Department *Country Reports on Human Rights Practices for 1993*, no specific Chinese industry is identifiable as a significant violator of child labor regulations. News reports alluding to possible child labor problems in China are anecdotal in nature, providing details on specific investigations of factory fires and other disasters where children were present. These involve a range of export industries including garments/textiles, fireworks, and toys. There is some anecdotal information on child labor in the footwear, electronics, handicrafts (including artificial flowers)<sup>2</sup>, and gun industries, but supporting evidence is not available.

## II. CHILD LABOR IN EXPORT INDUSTRIES

In a November 1991 "circular" to various provinces and cities, the Chinese Ministry of Labor admitted that the situation regarding the employment of child laborers was "very serious" throughout the country.<sup>3</sup> The circular apparently stated that exploiting child laborers has become a common phenomenon. For example, in some coastal areas and special economic zones, such as Fujian and Guangdong, as well as Zhejiang, Sichuan, and Hubei, there are reported to be four to five million child laborers under the age of 16. Child laborers under 12 years of age are also found in Wenzhou and in some areas of Guangdong and Hainan. The circular said that children usually work 10 to 14 hours a day, but their wages are just about half of adult workers.

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<sup>1</sup> American Embassy - Beijing, unclassified telegram no. 041337, Nov. 17, 1993.

<sup>1</sup> "'Cheng Ming' PRC reports contradict official figures on social problems," *BBC Summary of World Broadcasts* (January 6, 1992) [hereinafter BBC, January 6, 1992] citing excerpts from article by Kung Yen, 'Cheng Ming' (Hong Kong, January 1, 1992).

<sup>2</sup> In 1988 a newspaper article reported that an artificial flower factory in China's Shenzhen Special Economic Zone was caught employing girls as young as 12, who were paid 72 cents a day for 14 to 15 hours of work. Michael Browning, "Proposed Boycott has China denying child-labor charge," Herald Staff Writer, [publication and date unknown, on file].

<sup>3</sup> BBC, January 6, 1992.

Much of the evidence of child labor in China is derived from data from the large special economic zone of Shenzhen in southern China. Children between the ages of 10 to 16 are reportedly working up to 14 hours a day in factories in Shenzhen.<sup>4</sup> According to an article in the *Jakarta Post* in 1988, the *China Daily* reported on August 4, 1988 that girls work between 13 to 14 hours a day from 7 a.m.- 10 p.m. with two one-hour breaks.<sup>5</sup> The *China Daily* reported that after first paying for housing, electricity, water, and training, workers have little money leftover.<sup>6</sup> According to the *China Youth News*, conditions for children can be "extremely bad."<sup>7</sup> The *China Youth News* said that 44 of the 206 foreign-owned companies or joint ventures in Shenzhen employ children under 16 years of age.<sup>8</sup>

In a recent report, the Asian-American Free Labor Institute (AAFLI) affirmed that, at least in large urban factories, underage employment does not occur on a mass basis,<sup>9</sup> but violations of minimum age standards occur more commonly in sub-contracting factories producing for export.<sup>10</sup> According to AAFLI, China has had an explosion of production for export in non-urban areas, both in rural and township communities due, to a recent boom in the economy.

A review of current literature suggests that child labor is found in the export of fireworks, garment/textiles, and toys. Although allegations exist of child labor in Chinese electronics, handicrafts (artificial flowers), and gun factories, these allegations have not been documented.

## **FIREWORKS**

The United States imported approximately \$67 million of pyrotechnics and explosives from China in 1992.<sup>11</sup> Children are reportedly working in the fireworks industry. A recent newspaper report detailed an explosion at a fireworks factory in Hebei killing one child and injuring 34 school girls ranging from 11 to 13 years of age.<sup>12</sup> Investigators found that the school children had been forced by their teachers to work for slave wages making firecrackers. The school children were apparently promised 20 fen (2 cents) for making one long braid of firecrackers, but were actually paid three fen (0.3 cents). In its *China Labor Notes* newsletter of February/March 1994, AAFLI observes that this information was made public 38 days after the disaster

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<sup>4</sup> "Children Still Exploited in China," *Jakarta Post*, August 5, 1988.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> "Report Says Child Labor Rampant in Chinese City," *Associated Press*, August 3, 1988.

<sup>8</sup> *Id.*

<sup>9</sup> *Child Labor in China* (Asian-American Free Labor Institute, June 1994) 5 [on file] [hereinafter 1994 AAFLI China Report].

<sup>10</sup> *Id.*

<sup>11</sup> *U.S. Merchandise Trade: Exports and General Imports by Country* (Washington, D.C.: U.S. Department of Commerce, Bureau of Census, 1993) A89.

<sup>12</sup> "China Fireworks Blast Hurts Forced-Labor Pupils," *Reuters*, March 8, 1994.

occurred and no television coverage was permitted.<sup>13</sup> In 1992, another fire at a fireworks factory killed 20 workers - it was reported that most of those killed were between 9 and 14 years old.<sup>14</sup>

## GARMENTS AND TEXTILES

Newspaper and journal reports indicate that children are allegedly working in the garment and textile industries of China. Imports of apparel and textiles from China to the U.S. market reached approximately \$4.5 billion during 1993. *Agence France Presse* reported that China's number one textile firm at Qingpu, near Shanghai, employs children aged 12 to 15 years old allegedly recruited from the neighboring province of Anhui.<sup>15</sup> A 1993 article in the periodical *Dapeng Bay* reported that at Chungsan City, a foreign textile enterprise employed about 160 child laborers, and that a 14 year old was killed after her hair became tangled in her machine.<sup>16</sup> In August 1988, Beijing's national radio broadcasted an expose of working conditions in Shenzhen after journalists found 12 year-old children sleeping two to three in a bed in dorms and working 15 hours a day for \$10 per month. One child worker also showed a burn mark inflicted by the factory machine.<sup>17</sup>

## TOYS/SPORTS EQUIPMENT/GAMES

The International Child Labor Study staff also received numerous allegations of the use of child labor in toy, sporting equipment, and game factories. In 1992, the United States imported approximately \$3.9 billion worth of toys, games, and sporting goods from China.<sup>18</sup> A 1988 *Business Week* article reported that, in order to meet the holiday demand for toys, girls at a plant were ordered to work one or two 24-hour shifts each month.<sup>19</sup> The allegations of the employment of children under 14 years in China's toy industry helped prompt the "Toycott Campaign" urging a boycott of toys made in China.<sup>20</sup>

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<sup>13</sup> 1994 AAFLI China Report at 3. See also "Accident in Fireworks Plant Injures Child Laborers," in *China: Labor Notes*, (Asian-American Free Labor Institute, February/March 1994)  
4. Hubei, the heart of the firecrackers industry, has been plagued by fiery disasters despite crackdowns by local officials. According to a recent report by Asian-American Free Labor Institute, this officially released report provided far more details than is customary for Chinese authorities.

<sup>14</sup> Robin Wright, "World View: The Littlest Victims of Global 'Progress'," *Los Angeles Times*, January 11, 1994.

<sup>15</sup> Printed in *South China Morning Post* and the *Jakarta Daily*, April 30, 1993, cited in 1994 AAFLI China Report at 5.

<sup>16</sup> "The Boy Scouts of the Working World," *Dapeng Bay*, (Shenzhen Po An County Cultural and Sports Bureau, June 1993).

<sup>17</sup> "Report Says Child Labor Rampant in Chinese City," *Associated Press*, August 3, 1988.

<sup>18</sup> *U.S. Merchandise Trade: Exports and General Imports by Country* (Washington, D.C.: U.S. Department of Commerce, 1993) A90.

<sup>19</sup> Dinah Lee and Rose Brady, "Long hard days - at pennies an hour," *Business Week* (October 31, 1988) 46.

<sup>20</sup> "Frontlash Sponsors Toy BoyCott," *Ball State Daily News*, vol. 10, no. 68 (November 27, 1990).

### III. LAWS OF CHINA

#### A. NATIONAL CHILD LABOR LAWS

A new labor law published on July 6, 1994 (effective January 1, 1995), prohibits the employment of children under 16 years of age.<sup>21</sup> Previously, according to the U.S. Department of State *Country Reports on Human Rights Practices for 1993*, regulations promulgated in 1987 prohibited the employment of school age minors who had not completed the compulsory nine years of education.<sup>22</sup>

The enforcement of laws is sometimes made difficult by counterfeit identification cards. AAFLI reports that, according to workers in southeastern China, the use of counterfeit IDs is fairly common. Some workers admitted that they were three or four years younger than the 16 years certified on their ID cards.<sup>23</sup>

#### B. EDUCATION LAWS

The International Labor Organization reports that compulsory education in China is required up to age 16.<sup>24</sup> In a recent article in the *Dapeng Bay* periodical, children are reported to be dropping out of school at increasing rates.<sup>25</sup> According to the U.S. State Department, Chinese press reports indicate that dropout rates for lower secondary schools (ages 12 to 15) exceed nine percent in several southern provinces, whereas the national average is 2.2 percent.<sup>26</sup> The *Christian Science Monitor* reported that in 1987 at least three million Chinese children left school to begin work, joining 37 million other child dropouts from schools in the city and the countryside.<sup>27</sup> An increasing group of children leaving school below the legal work age suggests the possibility of a growing child labor problem.

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<sup>21</sup> "China Law Bans Child Labor, Bans; Addresses Hours, Minimum Wage," *Journal of Commerce*, July 7, 1994. According to the U.S. Department of State, in 1991, the State Council issued regulations imposing severe fines, withdrawal of business licenses, or jail for employers who hire laborers under 16 years of age. *Country Reports on Human Rights Practices for 1993* (U.S. Department of State, February 1994) 619 [hereinafter *Country Reports*]. It is unclear whether in 1991 a labor law - or a regulation - prohibited the employment of children under sixteen.

<sup>22</sup> *Country Reports* at 619.

<sup>23</sup> 1994 AAFLI China Report at 4.

<sup>24</sup> *ILO Conditions of Work Digest*, volume 10, 1/1991 (Geneva: International Labor Organization, 1991) Annex I.

<sup>25</sup> "The Boy Scouts of the Working World," *Dapeng Bay* (Shenzhen Po An County Cultural and Sport Bureau, June 1993) [on file].

<sup>26</sup> *Country Reports* at 619.

<sup>27</sup> Fanhua writes the number of children not attending school is increasing in China in, Zhen Fanhua, *Iron Rice Bowl, Black Rice Bowl, Gold Rice Bowl* (Henan's People's Publishing Company, May 1993), cited in 1994 AAFLI China Report at 6; "Heading for Cities and the Good Life," *Christian Science Monitor*, December 14, 1988.

### *C. INTERNATIONAL CONVENTIONS*

China is a party to ILO Convention No. 59 Concerning Minimum Age for Admission to Employment in Industry and the United Nations Convention on the Rights of the Child. China has not ratified ILO Convention No. 138 Concerning Minimum Age for Admission to Employment.

## **IV. PROGRAMS AND EFFORTS TO ADDRESS CHILD LABOR**

According to the Xinhua News Service, China has set up 2,763 courts to deal with cases involving juvenile delinquency and violation of children's rights, as well as 17 provincial committees for the protection of children.<sup>28</sup> After the fire at the handicrafts/toy factory at Zhili, Chinese authorities compelled 100 Guangdong factory owners to tour the remains of the factory. They have also announced tough fire safety regulations.<sup>29</sup> The AAFLI report notes that in early 1994, the Guangdong Labor Department issued a booklet summarizing pertinent labor laws and regulations, but it contained no mention of minimum age.

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<sup>28</sup> "Tianjin Hosts Forum on Protection of Juveniles," *Xinhua News Service*, October 12, 1993.

<sup>29</sup> "Locked Cage Causes A Tragedy," *AFL-CIO Labor Notes*, vol. 4, no. 11 (November 1993).

## I. OVERVIEW

A recent government census found that about 800,000 children between the ages of 12 and 17 work in Colombia.<sup>1</sup> The flower agribusiness, where children are used in both the processing and harvesting of flowers, is the only industry identified in Colombia which uses child labor and directly exports to the United States. The coal mining and leather tanning industries also use child labor but, to date, a direct link to exports to the United States has not been established. In addition, there are allegations of children working in emerald mines.

## II. CHILD LABOR IN EXPORT INDUSTRIES

### CUT FLOWERS

A recent report by Colombian sociologist and children rights activist María Cristina Salazar describes the use of children in the flower industry, one of Colombia's primary export industries. The information for this document was drawn from research currently being carried out by the Center for Social Studies (CES) at the National University in Colombia under agreement with the Inter-Institutional Flower Committee (CIIF), a census of 56 enterprises in the Municipality of Madrid, as well as observational notes from field trips to the flower plantations in the Spring of 1994.<sup>2</sup>

The flower industry in Colombia currently includes 300 large enterprises of which 250 are located in the Bogota plateau.<sup>3</sup> These establishments generate approximately 140,000 jobs. The flowers are exported to over 50 countries with the United States being the primary importer. Since 1982, Colombia has been the dominant supplier of fresh cut flowers to the United States. Colombia's flower plantations produce carnations, roses, pompoms, and other species.<sup>4</sup>

The areas surrounding the flower plantations have grown rapidly in recent years and are characterized by overpopulation, poverty, insufficient educational facilities, violence, and single parent families. Due to such conditions, many children are forced to work and contribute to the family income.<sup>5</sup>

Children formally employed on the plantations range in age from 11 to 18 with the majority being older than 14. There are also children as young as nine who assist their parents on Saturdays and receive payment. It seems that most children first come into contact with the enterprises through their parents who are already employed.<sup>6</sup>

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<sup>1</sup> *Country Reports on Human Rights Practices for 1993* (U.S. Department of State, February 1994) 402 [hereinafter *Country Reports*].

<sup>2</sup> Maria Cristina Salazar et al., *Child Labor in Industrial Sectors in Colombia* (Santafé de Bogota, 1994) Part 2.2, p.1 [hereinafter Salazar].

<sup>3</sup> *Id.* at Part 2.2, p. 6.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at Part 2.2, p. 8.

<sup>6</sup> *Id.* at Part 2.2, p. 13.

Most children work eight hours a day, Monday through Friday, and six hours on Saturday, and are paid between half and the full amount of the weekly minimum wage. Salazar's study could not establish reliable figures for the overall employment of children on the plantations but one child worker reported that there were 50 children working at his plantation out of a total of 200 workers.<sup>7</sup>

Children who work on the plantations perform virtually all tasks required for the cultivation and processing of cut flowers, with the possible exception of work in the cold rooms.<sup>8</sup> Most flower plantations are composed of cultivation areas, cold rooms, and areas for packaging and classification.<sup>9</sup> The tasks performed by workers include rooting, planting, lifting the plants, clipping the stalks, placing guide wires, forking, debudding, placing rubber bands around flowers, cutting, flower classification, cold storage rooms, packaging, and loading onto trucks.<sup>10</sup> Some of the tasks performed by children in the flower industry, including packaging, debudding, and rubber-banding, contribute to the processing of flowers for export.

Children working on flower plantations are exposed to the same risks as adult workers. Children are often exposed to toxic substances present during and after the spraying of pesticides. Physical exhaustion, accidental injuries, posture problems and impaired development are also found among child flower workers. On many farms children are not provided with protective clothing and adequate work implements.<sup>11</sup>

## COAL MINING

One of Colombia's major export industries is coal mining.<sup>12</sup> The majority of Colombia's total coal production comes from small, informal and marginal mining operations.<sup>13</sup> The mining which takes place in these enterprises is characterized by chamber and post underground operations, the use of manual implements and explosives, and the employment of two to eight workers who are usually families or friends. It is in these small scale marginal mining operations, which are illegal and generally more dangerous, that children are commonly employed.<sup>14</sup> The coal produced in the small scale mines is sold to either small coal enterprises or to intermediaries; its ultimate destination is unknown. The United States imports a significant portion of the 76 percent of Colombian coal which is exported.<sup>15</sup>

A study recently conducted by Salazar and others of the use of child labor in the marginal coal mines of Amaga and Angelopolis in the Department of Antioquia in northwestern Colombia, documents the hazardous conditions

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<sup>7</sup> *Id.* at Part 2.2, p. 16.

<sup>8</sup> *Id.* at Part 2.2, p. 13.

<sup>9</sup> *Id.* at Part 2.2, p. 4.

<sup>10</sup> *Id.* at Part 2.2, p.11.

<sup>11</sup> *Id.* at Part 2.2, p. 15.

<sup>12</sup> *The World Fact Book* (The Central Intelligence Agency, 1993) 86.

<sup>13</sup> Salazar at Part 1, p. 18.

<sup>14</sup> *Id.* at Part 2.3, p. 7.

<sup>15</sup> *Id.* at Part 1, p.21.

that children work under. Child miners as young as six generally come from rural areas and work with their families in the coal mines so that they may contribute to the family income. Children are involved in all of the mining tasks, with the youngest engaged in carrying water out from the mines, taking the mules loaded with coal to the road, and packing the coal into bags. The older children are primarily engaged in the more physically demanding tasks such as carrying heavy bags of coal on their backs, dragging tins of coal tied to the shoulders from the inside of the mines to the outside, driving the electric car to take coal out of the mine, and digging charcoal with a pike inside the mine.<sup>16</sup>

The mine workers face work related hazards such as landslides, floods, fires, explosions, and gas problems. In addition, children and adult miners alike face physical dangers including overexertion, hernias, lack of oxygen, and, especially for children, deformation of the bone structure. Children usually work in the mines from 4:00 a.m. to 12:00 p.m. five to six days a week. Some children work only part-time, or on weekends or vacations, but the majority do not attend school because of their full-time work at the mines.<sup>17</sup> Some children are provided only with room and board while others are paid according to the hours worked and the amount of coal extracted. Payment is often late and less than the legal minimum wage.<sup>18</sup>

The Salazar study found that the socio-economic conditions of the coal mining areas had a significant impact on child labor in the mines. It is common for child miners to come from unstable and poor families where the parents themselves are uneducated and may have worked in the coal mines as children. There is very little appreciation of the value of education or recreation and, therefore, parents do not encourage their children to attend school. Salazar observed that children are generally undervalued and seen primarily as additional income earners for the family.<sup>19</sup>

## **EMERALD MINING**

The American Embassy in Bogota reports that there may be some instances where children work in emerald mining.<sup>20</sup> The United States imports emeralds from Colombia. Further investigation is needed to substantiate these allegations.

## **LEATHER TANNING**

The growing Colombian leather tanning industry currently accounts for only a small amount of exports. The industry is partially comprised of small cottage industries and workshops which utilize primitive technology and unskilled manual labor. The workers in this sector of the industry are paid low wages and work long hours. It is likely that these conditions will remain, and perhaps worsen, as long as the work process is intensified to boost production and to compete on the international market.<sup>21</sup> The majority of leather produced in the small

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<sup>16</sup> *Id.* at Part 2.3, p. 18.

<sup>17</sup> *Id.* at Part 2.3, p. 19.

<sup>18</sup> *Id.* at Part 2.3, p. 20.

<sup>19</sup> *Id.* at Part 2.3, p. 15.

<sup>20</sup> American Embassy-Bogota, unclassified telegram no. 17643, November 17, 1993.

<sup>21</sup> Salazar at Part 1, p.16.



workshops appears to be sold to large leather manufacturers who produce bags, luggage, and other leather products.<sup>22</sup> The United States imports raw hides and skins, and leather manufactures from Colombia.<sup>23</sup>

A 1994 study by Salazar and anthropologist-historian Wilman Díaz of the leather tanning industry in Villapinzon, Department of Cundinamarca, is one of the first documents to describe the use of child labor in this industry. The researchers confirmed that children as young as five are found working in the small, commonly family operated enterprises. They fall into one of the following categories: paid employee (usually 14 years or older), apprentice under verbal contract, or uncompensated worker without a contract.<sup>24</sup> Children aged 12 to 14 are engaged in most tasks of the three-phase tanning process, including: rinsing, sinking, conserving, and dyeing the hides with chemical mixtures; hanging hides to dry; pigmenting the skins; and measuring the finished hides.<sup>25</sup> Children often begin leather tanning work at age five or six as apprentices or helpers and continue until they have acquired the skills to perform all tasks in the process. This usually occurs around age 14.<sup>26</sup>

Child workers in the leather industry are exposed to numerous health hazards. Among the obvious hazards mentioned in the study of leather tanning in Villapinzon are burns, intoxication, fumigation, injuries, fractures and amputations (some have lost their hands and fingers working with machines), and vision impairment.<sup>27</sup> One tannery owner interviewed confirmed that the work with chemicals is dangerous and children generally work without any protective clothing.<sup>28</sup> Children work up to nine hours a day, six or seven days a week, and although some attend school, their attendance suffers due to work. For child workers under the age of 12, monetary compensation for their work is at most a pittance and for those who work outside of the home payment often comes in the form of room and board. The older child workers who do receive payment usually get half of what adult workers are paid.<sup>29</sup>

### III. LAWS OF COLOMBIA

#### A. NATIONAL CHILD LABOR LAWS

The basic minimum age for work, established in the Constitution and reinforced in Article 237 of the Minors code, is 14. Children aged 14 to 16 are only permitted to work for a maximum of six hours a day. On occasion,

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<sup>22</sup> Telephone interview with Maria Salazar by Department of Labor official (June 23, 1994).

<sup>23</sup> More than \$7 million worth of skins and hides (1993) and more than \$6 million worth of leather manufactures (1992) were imported by the United States from Colombia. United States Department of Commerce, Bureau of the Census, *Merchandise Trade-Imports by Commodity* (June 1994).

<sup>24</sup> Salazar at Part 2.1, p. 4.

<sup>25</sup> *Id.* at Part 2.1, pp. 14-15.

<sup>26</sup> *Id.* at Part 2.1, p. 16.

<sup>27</sup> *Id.* at Part 2.1, p. 33.

<sup>28</sup> *Id.* at Part 2.1, p.45. From interview with tannery owner by Wilman Díaz (April 27, 1994).

<sup>29</sup> *Id.* at Part 2.1, p.37.

children aged 12 to 14 are allowed to work if determined appropriate by the Family's Defender.<sup>30</sup> This exception is made in special cases such as those where the child is a single mother or is the head of a family or where the work is classified as "light work" and the child only works 4 hours a day.<sup>31</sup> Minors, who are defined as those persons under the age of 18, are forbidden from engaging in night work and jobs that may pose risks to their physical integrity including: underground mining; handling of explosives; work with heavy loads; work with shears, cutters, laminators or other dangerous machines; welding; manufacturing bricks, tubes or similar products; in factories; high risk agricultural or agroindustrial activities; or in steel and other metal industries.<sup>32</sup>

Article 44 of the Colombian Constitution reads: "The following are fundamental rights of the children: life, physical integrity, health and social security. . . They will be protected against any form of abandonment, physical or moral violence. . . economic or labor exploitation and risky works. They will enjoy as well, all the other rights stipulated in the Constitution, in the laws, and in the international treaties ratified by Colombia..<sup>33</sup> Article 14 of Decree 2737 of November 27, 1989, known as The Minor's Code, reasserts the message of the Constitution in stronger language: "All minors have the right to be protected against economic exploitation and the performance of any work that could be dangerous to its mental or physical health, or that impedes its access to education. The state will review that these provisions are complied with."<sup>34</sup>

Minors are required to get a written authorization from the labor inspector, or the next highest local authority, in order to work. This provision, stated in Article 238 of the Minor's Code, also includes that the child's parent or Family Defender must request this work permit.<sup>35</sup> Law 20 of 1982 was the first piece of legislation to grant the responsibility to the state for issuing authorization to minors for work. This was a shift from parents directly authorizing the work of their children.<sup>36</sup> If a minor or his/her employer does not comply with the regulations laid out in Article 238 of the minor's code, "the employer is subject to the fulfillment of all the contract obligations, but the labor component authority can terminate the relation and sanction the employer with fines."<sup>37</sup>

In 1992, the ILO Committee of Experts reported that Colombia's Minor's Code was not in total compliance with ILO Convention No. 5 on Minimum Age in Industry which the Colombian Government has ratified. The point raised by the ILO addresses the ambiguity of Colombia's laws concerning the dimensions of legal work for 12 to 14 year olds and asserts that:

*Colombia's laws go beyond the derogations allowed by the Convention which prescribes that the exception from the prohibition of "employment" or "work" of children under the age of 14 years in any public or private industrial undertaking shall be limited to employment or work in an undertaking in which only members of the same family are employed (Article 2) or to*

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<sup>30</sup> "Memorandum: The Working Minor (Informal Translation)" (Colombian Ministry of Labor, 1994) 3 [hereinafter GOC Memo].

<sup>31</sup> *Id.* at 5.

<sup>32</sup> *Id.* at 10.

<sup>33</sup> *Id.* at 1.

<sup>34</sup> *Id.* at 2.

<sup>35</sup> *Id.* at 3.

<sup>36</sup> *Id.* at 4.

<sup>37</sup> *Id.* at 5.

*work in technical schools, provided that such work is approved and supervised by public authority (Article 3)."*<sup>38</sup>

In addition, "light work," unless more clearly defined, provides a loophole in Colombia's child labor provisions.

The Ministry of Labor and the Social Security Institute are responsible for enforcing child labor laws. The recent study by Salazar of the cut flower industry in Madrid revealed that neither agency had visited plantations in the area during the six month period prior to the survey. Many enterprises reported that they had never been visited. The report states that, "(t)his indicates that supervision and surveillance of labor and social security conditions for all workers in the flower industry, including children. . . has been practically non-existent . . . (o)ne could therefore conclude that there is no type of punishment for non-compliance either."<sup>39</sup>

## **B. EDUCATION LAWS**

Colombian law requires that children attend school until the age of 14.<sup>40</sup> However, the educational system is weak, particularly in the rural areas. The prevailing societal attitude is that it is more important for children to work than to attend school. A recent survey in the city of Amaga found that close to 70 percent of children did not complete primary school.<sup>41</sup>

## **C. INTERNATIONAL CONVENTIONS**

Colombia is a party to the U.N. Convention on the Rights of the Child.<sup>42</sup> The Government of Colombia has not ratified ILO Convention No. 138 Concerning the Minimum Age for Admission to Employment<sup>43</sup> but has ratified ILO Convention No. 5 on Concerning Minimum Age for Admission to Employment in Industry (predecessor to Convention 59).<sup>44</sup>

# **IV. PROGRAMS AND EFFORTS TO ADDRESS CHILD LABOR**

In 1980, the Government of Colombia established a special Program for Child Workers aimed at improving working conditions for child laborers, decreasing children's participation in the work force, achieving better labor norms and implementing child labor legislation effectively. The program focused on children under 14 who were working with their parents' permission and those working under conditions which impeded their development. The General Directorate of Child Workers, established under Law 20 of 1982, was created to protect and

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<sup>38</sup> *Report of the Committee of Experts on the Application of Conventions and Recommendations 1992* (Geneva: International Labor Organization, 1993).

<sup>39</sup> Salazar at Part 2.2, p. 11.

<sup>40</sup> *Conditions of Work Digest, Volume 10* (Geneva: International Labor Organization, 1991) 35.

<sup>41</sup> Salazar at Part 2.3, Annex 2.

<sup>42</sup> *Country Reports* at 1403.

<sup>43</sup> GOC Memo at 5.

<sup>44</sup> *List of Ratifications by Convention and by Country (as at December 1992)* (Geneva: International Labor Organization, 1993) 8.

gradually abolish child labor. In addition, the Ministry of Labor currently has a pilot program for educating some child miners in handicraft production as an alternative to the dangerous work in the mines.<sup>45</sup>

In a 1988 article María Salazar evaluates the Government's performance as follows: "In practice . . . protection has been limited almost exclusively to the granting of licenses allowing young people aged between 15 and 18 to enter the labor force under certain conditions established by law."<sup>46</sup>

There are several non-governmental organizations (NGOs) that have established alternative schools to train and accommodate the scheduling needs of child coal miners. Defense for Children International-Colombia has also been active in documenting and publicizing the plight of child laborers but, on the whole, NGO activity in the area of child labor has been minimal.

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<sup>45</sup> American Embassy-Bogota, unclassified telegram no. 008939, June 14, 1994.

<sup>46</sup> Maria Cristina Salazar, "Child Labour Policies and Programmes in Colombia," in *Combating Child Labor* (Geneva: International Labor Organization, 1988) 217-218.

## I. OVERVIEW

Child labor in Côte d'Ivoire's export sector appears to be limited. However, there is documentation of children working at two small-scale gold and diamond mining operations, the products of which are exported through domestic and international firms or agents.

## II. CHILD LABOR IN EXPORT INDUSTRIES

There are reports of child labor in Côte d'Ivoire's gold and diamond mines, as well as in the fish canning industry, a cleaning products company in Abidjan, and the government-owned sugar mills in the North.<sup>1</sup>

### GOLD MINING

In September 1993 Defense for Children International (DCI) and UNICEF published a report documenting the use of child labor in the gold mines of Issia and the diamond mines of Tortiya. The United States imports small amounts of gold and diamonds directly from Côte d'Ivoire.<sup>2</sup>

Issia is located 210 kilometers from Abidjan in a difficult to reach forested area in the central-west region of Côte d'Ivoire. Gold is the principal mineral mined at Issia's non-industrialized small-scale mining operations. Adults and children alike are employed at the mines; the DCI/UNICEF study details the activities of approximately 800 female and male child miners. The average age of child workers is seven; the youngest may be three years old. The children work beside their parents. Children are involved in all the major steps of mining including digging and breaking the soil, transporting, and cleaning the rocks.<sup>3</sup>

At Issia, child workers are exposed to hazards and harsh working conditions. Children leave for work at six in the morning and walk distances ranging from three to seven miles through the dark forest to reach the mines. They work long hours in uncomfortable positions, are not given regular meals by their employers, and drink from contaminated water sources.<sup>4</sup>

### DIAMOND MINING

The diamond mining site surrounds the town of Tortiya which is located 500 kilometers from Abidjan in the north of Côte d'Ivoire. All areas around Tortiya can be mined. Many people are occupied in the various tasks related to diamond mining. Some work through the night as well as the day. Diamonds collected in the mines

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<sup>1</sup> Ivoirian non-governmental organization representatives who met with a U.S. Department of Labor official alleged child labor in these industries. American Embassy-Abidjan, unclassified telegram no. 006538, June 7, 1994 [hereinafter Abidjan 006538].

<sup>2</sup> U.S. Department of Commerce, Bureau of the Census, *Merchandise Trade-Imports by Commodity* (June, 1994). In 1993, the United States imported \$28,000 in non-monetary gold and \$2,973,000 in unworked diamonds imported directly from Côte d'Ivoire.

<sup>3</sup> Gabin Kponhassia, *Le Travail des Enfants dans les mines de Côte d'Ivoire* (Defense for Children International (DCI) and UNICEF, 1993) 6-8 [hereinafter DCI/UNICEF Report].

<sup>4</sup> *Id.* at 12.

are sold directly to agents of multi-national companies. The vast majority of the diamonds go to diamond processors, finishers, and retailers in Antwerp, Belgium.<sup>5</sup>

The DCI/UNICEF report estimated the number of child workers in diamond mining in Tortiya at approximately 350.<sup>6</sup> Children primarily work with their family or in small work teams rather than independently.

The tasks involved in diamond mining are very similar to those in gold mining. The DCI/UNICEF report states that children are primarily involved in digging the hard rock and carrying it to the rivers to be washed. Digging requires the children to situate themselves in uncomfortable and dangerous positions and use very rudimentary tools. Once they have acquired enough rock, they carry it on their heads or in handcarts over long distances to the river to be washed.<sup>7</sup> Most children, however, fetch food, cigarettes, and tools for the adult workers.

### **III. LAWS OF CÔTE D'IVOIRE**

#### ***A. NATIONAL CHILD LABOR LAWS***

The minimum age for light agricultural work is set at 12; those aged 12 to 14 must have parental consent and may not work more than four and a half hours a day. The basic minimum working age otherwise is 14 for all activities except domestic work (12), public performances, and (for girls) working in street stalls or using pedal driven sewing machines (16). The minimum age for light underground work and work on scaffolding is 16, and 18 for hazardous work involving machinery in motion, glass work, and trimmers and stokers on ships.

The Ministry of Labor effectively enforces child labor laws in the large enterprises of the formal sector, but not in the small enterprises of the informal sector.<sup>8</sup>

#### ***B. EDUCATION LAWS***

Côte d'Ivoire's laws establish compulsory education for children up to the age of 16. This law is not enforced, as evident in the fact that roughly 70 percent of Ivoirian children leave school at the age of 12 or 13. School costs including an entrance fee, books, uniforms, supplies, and transportation deter poor families from sending children to school.<sup>9</sup>

#### ***C. INTERNATIONAL CONVENTIONS***

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<sup>5</sup> Interviews with diamond agents in Tortiya by a U.S. Department of Labor official (June, 1994).

<sup>6</sup> A visit by a U.S. Department of Labor official to Tortiya in June 1994 found that, out of the approximately 500 workers engaged directly in mining activities (many of whom were from Burkina Faso, Mali, and Mauritania), only five or six were children.

<sup>7</sup> A Department of Labor official visited the Tortiya mines in May 1994 and found that children were carrying the earth to be washed and fetching food, cigarettes, and tools for the adult workers; DCI/UNICEF Report at 11-12.

<sup>8</sup> Interview with Mr. N'Dri Konan Lazare, Directeur de l'Emploi et de la Réglementation du Ministère de l'Emploi et de la Fonction Publique, by Department of Labor official (June 3, 1994).

<sup>9</sup> Abidjan 006538.

The Government of Côte d'Ivoire is a party to the U.N. Convention on the Rights of the Child.<sup>10</sup> Côte d'Ivoire has not ratified ILO Convention No. 138 Concerning Minimum Age for Admission to Employment or ILO Convention No. 59 Concerning Minimum Age for Admission to Industry.<sup>11</sup>

#### IV. PROGRAMS AND EFFORTS TO ADDRESS CHILD LABOR

Ivoirians do not in general perceive child labor to be an issue that requires attention. The ILO, UNICEF, and the Ivoirian Human Rights League (LIDHO), have not found much public support or interest in the cause. The prevailing attitude in Côte d'Ivoire is that child labor is inevitable as long as children are needed to work on rural farms, and as long as urban children are forced to work in order to avoid starvation. The Ivoirian public is, however, concerned about the problem of street children and there are non-governmental organizations (NGOs) working with these children.

In general government policy is directed more towards protecting child workers than eliminating child labor. The Ministry of Social Affairs and some municipal governments have focused primarily on street children with programs that organize street children into cooperatives of small market sellers and shoe shine boys.<sup>12</sup> The Ministry of Health and Social Affairs has a program, funded by UNICEF, and implemented by the International Catholic Bureau for Children (BICE) and an Italian NGO called ABEL-LVIA, which places street children in apprenticeships for formal training. Critics maintain that the government should focus more effort on providing technical training and monitoring the apprenticeship system.<sup>13</sup>

In Côte d'Ivoire, NGO programs on child labor are limited and primarily focus on street children and child domestic servants. The Ivoirian Human Rights League (LIDHO) has a program to provide schooling for children working as domestics.<sup>14</sup>

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<sup>10</sup> *Country Reports on Human Rights Practices for 1993* (U.S. Department of State, February, 1994) 1403.

<sup>11</sup> *List of Ratifications by Convention and Country (as at 31 December 1992)* (Geneva: International Labor Organization, 1993).

<sup>12</sup> Interview with Mr. N'Dri, Sous-Directeur de la Protection et de la Promotion Sociale, Ministère de la Santé et des Affaires Sociales, by Department of Labor official (June 3, 1994).

<sup>13</sup> Interview with Andre Akou, Côte d'Ivoire Country Director, African-American Labor Center (AALC), by Department of Labor official (June 2, 1994).

<sup>14</sup> Abidjan 006538.

## I. OVERVIEW

A 1988 government survey of Egypt found that 1.4 million children between the ages of 6 and 14 work in Egypt.<sup>1</sup> Among Egypt's export industries, there is evidence that child labor is used in the production of a small amount of hand-knotted carpets for export. The textile, perfume, and leather industries merit further investigation.

## II. CHILD LABOR IN EXPORT INDUSTRIES

### HAND-KNOTTED CARPETS

Carpet making is a traditional craft in Egypt and children, almost exclusively female, typically learn the craft at home. The children are trained at an early age by an older family member. Some children also work in carpet factories such as those found in a western suburb of Cairo, near the Pyramids. These carpets are sold primarily to the tourist market and the export market, including the United States. The United States imported approximately \$500,000 in hand knotted and hooked carpets from Egypt in 1993, though this does not include carpets purchased by American tourists.

The manager of one factory reported that he sells to American tourists and sometimes ships carpets back to the United States for them.<sup>2</sup> The factory also regularly ships containers of carpets to Germany for distribution throughout the industrialized world and occasionally ships directly to wholesale dealers in the United States.

Several children between the ages of 10 and 14 were observed working on looms in this factory. The manager claimed that the factory was in fact a school that received government support for its training program. He said that young girls start as trainees at age seven or eight, and it takes one to two years for the girls to learn how to make the knots and how to work from a printed pattern. For another year or two they work on "practice looms" and their product is not sold. By the time the girls are approximately 10 or 11 years old, they start working on professional looms. The owner stated that all of the girls attended school for half a day and would work in either in the morning or the afternoon, depending on their school shift, for up to three hours. Independent interviews with the child workers revealed that not all of them attend school and some work a full day from 8:00 a.m. to 6:00 p.m., in violation of Egypt's labor laws. The children reported their wages as approximately \$20 per month when they first start, rising eventually to \$60 or more per month.<sup>3</sup>

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<sup>1</sup> This number represents 12 percent of children in this age group and 7 percent of the total labor force. Among those 12 to 14 years old, 22 percent work. Nader Fergany, *Child Labor in the Arab Countries* (The Arab Council for Childhood and Development, September 1993) 14 [hereinafter *Child Labor in the Arab Countries*].

<sup>2</sup> Site visit by U.S. Department of Labor official, Giza (May 1994). Bills of lading were observed for approximately 50 orders going to cities scattered around the United States.

<sup>3</sup> By way of contrast, informal interviews with adult workers revealed that some professional government workers were only earning \$60/month, and waiters were often paid less than \$40/month.



The manager stated that there are approximately 10 other factories in the same district that produce for the tourist and export market, and that their working conditions are generally similar. He also reported that the local factories purchase from home-based producers living in rural villages that also use child laborers.<sup>4</sup>

## LEATHER

A 1985 International Labor Organization (ILO) study of the leather tanning industry in Cairo found that most child labor in the industry was concentrated in small enterprises that produce for domestic consumption. Children were found in two export-oriented workshops covered by the survey. The tasks performed by the children included cleaning, preparing material, and packaging. The children working in the larger workshops generally worked under better conditions. According to the ILO study, the average child working in this industry was 11.7 years old and worked 12.8 hours per day.<sup>5</sup>

More recent information confirms that children 10 to 14 years old work irregular hours for what was described as "pocket money." It was reported that most of the children attended school and work either before or after classes. Small workshops provide tanned leather to craftspeople in the local area for fabrication into commercial products.<sup>6</sup>

The United States imports both raw hides and skins and manufactured leather products from Egypt but further investigation is needed to determine whether the manufacturers which buy leather from the small scale tanners, or some of the larger tanneries using child labor, are exporting directly to the United States.

## TEXTILES

Children are found working in Egypt's small textile factories. In 1993, the United States imported approximately \$6 million in textiles from Egypt.<sup>7</sup> Research is needed on whether the products of small-scale textile factories reach the United States through sub-contracting or purchasing arrangements with other larger firms.

In 1993, the International Labor Organization, in conjunction with a local non-governmental organization, conducted a survey of 100 small factories (less than 100 workers) and even smaller family operated workshops in one region of greater Cairo, of which half produced textiles. Twenty-five percent of the workers in these firms were children under the age of fifteen.<sup>8</sup> Nearly 60 percent of the children worked for employers who were not personally known to the parents, and half worked outside of their immediate neighborhoods.<sup>9</sup> Seventy-three

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<sup>4</sup> Site visit by U.S. Department of Labor official, Giza (May 1994).

<sup>5</sup> Ahmed Abdalla, "Child Labor in Egypt: Leather Tanning in Cairo," in *Combating Child Labor* (Geneva: International Labor Organization, 1988) 33, 34 [hereinafter *Leather Tanning in Cairo*].

<sup>6</sup> Site visit by U.S. Department of Labor official to leather tanning workshops in Madabigh, the same district of old Cairo surveyed by the ILO in 1985 (May 1994).

<sup>7</sup> U.S. Department of Commerce, International Trade Administration, Office of Textiles and Apparel, *Major Shippers: Textile and Apparel* (June 11, 1994).

<sup>8</sup> Dr. Adel Azer, et. al., *Training and Welfare of Working Children in Shubra El Kheima* (Cairo: National Center for Social and Criminological Research and the International Labor Organization, 1993) 34-35 [hereinafter Azer 1993].

<sup>9</sup> *Id.* at 63.

percent of the children worked in excess of twelve hours per day and earned an average of \$8 per month.<sup>10</sup> The study concluded that, "Working hours are no doubt a flagrant violation of the labor law which prohibits the work of juveniles after 7:00 p.m. and before 6:00 a.m., with a maximum of 6 hours, provided it is intercepted with a break, and it is prohibited to assign juveniles work for more than four consecutive hours." In factories that work on a shift system, the study found one-third of the children in those factories also worked the night shift.<sup>11</sup> Most of the children reported that their work consisted of cleaning up and carrying tools around the factory, and as attendants to the weaving machines.<sup>12</sup>

## **OTHER EXPORT INDUSTRIES**

Other export industries alleged to use child labor include perfumes,<sup>13</sup> handicrafts, spices, and glass. All of these industries require further investigation.

## **III. LAWS OF EGYPT**

### ***A. NATIONAL CHILD LABOR LAWS***

Article 124 of the Labor Act No. 91 of 1959 stipulates that no child under 12 years of age may be employed under any circumstances and sets the minimum age at 15 years for some hazardous industries.<sup>14</sup> Labor Law 137 of 1981 states that children between the ages of 12 and 15 are allowed to work 6 hours a day, but not after 7:00 p.m. Decrees No. 12 and 13 issued by the Ministry of Manpower and Vocational Training in 1982 specify various hazardous jobs and industries where the employment of children under 15, in a few cases, and 17, in other cases, are prohibited.<sup>15</sup>

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<sup>10</sup> *Id.* at 74.

<sup>11</sup> *Id.* at 72-73.

<sup>12</sup> *Id.* at 75.

<sup>13</sup> The owner of a Cairo perfume store, oriented toward sales to tourists, stated that family members as young as 8 and 10 years old worked in processing perfumes and other wood and metal handicraft products. He said that while most of his products were sold directly to tourists, he would occasionally ship items to the United States for tourists that did not want carry them back. He also stated that he was looking to find a wholesale importer in the United States. Site visit to perfume store, Cairo, by Department of Labor official (May 1994).

<sup>14</sup> ILO Committee of Experts, E/CN.4/Sub.2/AC.2/1991/5/ADD.1 (1991) 6.

<sup>15</sup> *Child Labor Legislation in Egypt* (Egyptian Ministry of Justice and UNICEF, September 1989) 126-129.

The government is currently considering revisions to its labor code. The draft legislation being discussed would raise the minimum age for work to 14 years and would establish a number of conditions and protections for working children between the ages of 14 and 17.<sup>16</sup>

In the formal sector, particularly in the state-owned factories where most of export production is concentrated, local trade unions report that Egypt's labor laws were well enforced. By contrast, there appears to be little effort by the government to oversee conditions in the informal sector. Small factories and workshops are occasionally subject to labor inspections although working conditions for children, as well as adults, often remain in violation of labor laws.<sup>17</sup> The Ministry of Manpower noted that its 2,000 labor inspectors cited 72,000 violations stemming from 500,000 site visits in 1993.<sup>18</sup> On the other hand, independent studies and interviews indicate that many employers view the inspectors as ineffective, at best.<sup>19</sup>

## B. EDUCATION LAWS

While education is compulsory in Egypt until age 15,<sup>20</sup> economic and social factors force many students out of school and into the workplace. Ministry of Education statistics show that 88 percent of children between the ages of 6 and 12 attend school, but a study carried out in cooperation with the World Bank by the National Council for Education Research indicates that 20 percent of the children enrolled in the first grade in the 1979-1980 school year dropped out before completing the sixth grade.<sup>21</sup> Due to resource constraints many public schools operate on a shift schedule where up to three sets of children attend classes for approximately four hours apiece. Public school tuition, uniforms, and other school supplies raise the yearly cost of primary education to approximately \$15 per child.

Public primary education is also perceived by much of the population to be ineffective. Private lessons are regarded as essential if a child is to successfully complete the exams required for admission to secondary schools. These lessons, which must be paid for, are often given by the same person who teaches the child in the public school.<sup>22</sup> One study of working children, conducted by an Egyptian social service organization in conjunction with the International Labor Organization, found that of all mothers interviewed, 90 percent complained of the high cost of education.<sup>23</sup>

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<sup>16</sup> "The Project of Labour Law," EGY/92/028, (Jan. 1994) [on file].

<sup>17</sup> Azer 1993 at 36; *Leather Tanning in Cairo* at 33-34.

<sup>18</sup> Interview with Abdel Kader El Assar, Under Secretary, Ministry of Manpower and Training, by Department of Labor official (June 2, 1994).

<sup>19</sup> Azer 1993 at 51; *Leather Tanning in Cairo* at 44-46; Various interviews with sources in Egypt by Department of Labor official (May 1994).

<sup>20</sup> *Conditions of Work Digest*, Volume 10 (Geneva: International Labor Organization, 1991) 30.

<sup>21</sup> Cited in Dr. Adel Azer, *Child Labor in Egypt* (National Center for Social & Criminological Research and UNICEF, [1990]) 37-38 [hereinafter Azer 1990].

<sup>22</sup> Interview with Imam Bibars, UNICEF, by Department of Labor official (May 31, 1994). See also *Leather Tanning in Cairo* at 39.

<sup>23</sup> Cited in *Child Labor in the Arab Countries* at 30.

### *C. INTERNATIONAL CONVENTIONS*

Egypt is a party to the U.N. Convention on the Rights of the Child. The Government of Egypt has not ratified ILO Convention No. 138 Concerning the Minimum Age for Admission to Employment or either of the ILO Conventions Concerning Minimum Age for Admission to Employment in Industry (No.5 and No.59).<sup>24</sup>

### **IV. PROGRAMS AND EFFORTS TO ADDRESS CHILD LABOR**

The most recent effort to address child labor in Egypt was the 1994 child labor workshops for government labor inspectors, jointly sponsored by the ILO International Program for the Elimination of Child Labor (IPEC) and the Egyptian Ministry of Manpower and Training . UNICEF also has an active program which conducts and sponsors research on child labor.

Interviews with several trade unions, the Egyptian Trade Union Federation and the Arab Labor Organization revealed little activity regarding child labor. The unions are active in the formal sector of the economy where they say child labor does not exist.

Egyptian non-governmental organizations (NGOs) focus primarily on research and action to ameliorate the worst aspects of child labor. For example, groups conduct training sessions to teach children a marketable skill in non-hazardous industries, such as sewing. They operate health clinics and literacy programs as well as child care centers for working mothers. Campaigns are underway to raise public awareness of the detrimental effects of child labor. Still other NGOs work to promote government enforcement of existing child labor laws, particularly prohibitions against children working excessive hours, at night, or in hazardous industries.

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<sup>24</sup> *List of Ratifications by Convention and by Country (as at December 31, 1992)* (Geneva: International Labor Organization, 1993).

## I. OVERVIEW

A 1992 report by UNICEF revealed that over one million Guatemalan children aged seven and up are working.<sup>1</sup> Despite a reported decline in employment of children under the age of 14 in Guatemala's garment maquiladoras that produce apparel for export to the United States, evidence suggests that a small amount of children are still employed. Remote factories and subcontracted garment manufacturing enterprises appear to be more likely than urban factories to employ children. Further investigation of these areas is needed.

## II. CHILD LABOR IN EXPORT INDUSTRIES

### GARMENT MAQUILAS

In 1993, Guatemala exported over \$545 million in apparel to the United States.<sup>2</sup> The vast majority of garments exported from Guatemala are produced in maquiladoras, or "maquilas," which assemble garments from imported materials and ship them to foreign destinations without being subjected to any duties.<sup>3</sup> A large percentage of Guatemala's maquilas are owned by U.S. or South Korean investors and employ a largely female work force.<sup>4</sup>

In recent years, a great deal of attention has been focused on child labor in Guatemala's maquiladora sector. Kurt Peterson, who researched and wrote on Guatemala's maquiladoras in 1992, has described the working conditions of children employed in these factories. Peterson profiled one child worker named Maria as follows:

*Only thirteen years old, "Maria" works at Sung Sil S.A., a five-hundred-machine shop . . . [which] is located in a recently constructed maquila factory park ten miles outside of Guatemala City. Maria lives with her two brothers, her parents, and her grandmother in a two-room shack on a dirt road near the modern factory. She does not attend school and cannot read. But Maria can sew -- for eleven hours a day, six days a week she sews. When management requires, she works until 3:00 a.m., and then rises four hours later to begin again.<sup>5</sup>*

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<sup>1</sup> Cited in "Children Bear Brunt of Guatemalan Civil Strife," *Notimex Mexican News Service*, June 8, 1992.

<sup>2</sup> U.S. Department of Commerce, International Trade Administration, Office of Textiles and Apparel, *Major Shippers: Textiles and Apparel* (June 11, 1994).

<sup>3</sup> Kenneth L. Klothen, *Child Labor in the Export Manufacturing Sectors of Central America and Mexico* (May, 1994) 5 [on file] [hereinafter Klothen].

<sup>4</sup> Cindy Forster, "Organizing in the Maquila Factories," in *Report on Guatemala* (Spring 1991) 6.

<sup>5</sup> Kurt Peterson, *The Maquiladora Revolution in Guatemala* (New Haven: The Orville H. Schell, Jr. Center for International Human Rights at Yale Law School, 1992) 170 [hereinafter *The Maquiladora Revolution*].

Many observers, including Guatemalan NGOs and U.S. Embassy officials, assert that, as a result of the negative publicity given to child labor in the textile maquilas, employers have greatly reduced their use of child labor.<sup>6</sup> A recent study by the Guatemalan think-tank Asociacion para el Avance de las Ciencias Sociales en Guatemala (AVANCSO) found that nine of forty-nine maquila workers were between the ages of 14 and 17 and that this group represented the youngest group of workers.<sup>7</sup> Nevertheless, there is evidence suggesting that at least some children under the age of 14 are still working in the textile factories.

A Guatemalan woman who had conducted extensive interviews with workers in garment maquiladoras that were producing for export to the United States testified at a June 1994 U.S. House Subcommittee on Labor-Management Relations Hearing that, "(t)here are many children as young as 11 or 12 working in maquilas."<sup>8</sup> Kenneth Klothen, a children's rights expert who visited Guatemala in May 1994, reported that although there has been a decrease in child labor in Guatemala's export industries, there is still reason for concern. Klothen claims that, "those maquiladoras located outside the capital city may be more likely to employ younger children both because the pool of adult workers is smaller and because they are less likely to be exposed to scrutiny by independent observers."<sup>9</sup> He supports this argument with evidence given by AVANCSO investigators who recently observed children as young as 12 entering a maquila in Chimaltenango, several miles from Guatemala City, but were denied access to the factory by management.<sup>10</sup> Other sources, including Peterson, echoed Klothen's argument by claiming that more child labor exists in the remote maquilas than in those found in the cities.<sup>11</sup>

Klothen also noted the continuing trend to subcontract garment sewing in small shops and homes in Guatemala. This practice, which is commonly found in Latin America, allows a factory to boost its production while turning a blind eye to child workers who are employed by these sub-contractors or who assist their mothers working out of their homes. An example of this sort of arrangement is given by Peterson, "in the village of San Pedro Sacatepequez, where [a U.S. owned garment company] contracts large volumes of cheap flannel shirts to dozens of small household shops, children as young as six work alongside their siblings and mothers, usually snipping excess threads from finished garments."<sup>12</sup> Although there has been no recent written documentation of child labor in this area, sources in Guatemala have continued to report its existence.<sup>13</sup>

Further investigation is needed to determine the extent to which children under 14 are working in the maquila factories, or involved in the subcontracting, of Guatemala's garment industry today.

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<sup>6</sup> Klothen at 7.

<sup>7</sup> *El Significado de la Maquila en Guatemala* (Guatemala City: AVANCSO, 1994).

<sup>8</sup> *Hearing on Leslie Fay Closure in the United States*, U.S. House of Representatives Subcommittee on Labor-Management Relations (June 7, 1994) (Statement of Flor de Maria Salguero de Laparro).

<sup>9</sup> Klothen at 7.

<sup>10</sup> *Id.* at 7.

<sup>11</sup> Telephone interview with Kurt Peterson, author of *The Maquiladora Revolution in Guatemala*, by U.S. Department of Labor official (April 14, 1994).

<sup>12</sup> *The Maquiladora Revolution* at 92.

<sup>13</sup> Minutes of Briefing by Rosa Delia Galicia Lopez of INEXPORT Union to the Guatemala Coordinating Committee (November 11, 1992).

## OTHER EXPORT INDUSTRIES

Labor Ministry and staff from non-governmental organizations working with indigenous children allege that child labor violations also exist in the agricultural processing sector that ships both fresh and frozen products to foreign markets.<sup>14</sup>

### III. LAWS OF GUATEMALA

#### A. NATIONAL CHILD LABOR LAWS

The basic minimum age for work in Guatemala, as established in the *Codigo de Trabajo*, is 14. However, the Inspector General of Labor (IGT) has authority to grant a work permit to an underage child if that child is an apprentice, "extreme poverty" warrants the child's contribution to the family income, or if he or she is engaged in work that is light in "duration and intensity."<sup>15</sup> Children under 16 are prohibited from engaging in "unhealthy or dangerous" work, as established by regulation or upon inspection by the IGT.<sup>16</sup> All minors are prohibited from engaging in night work.<sup>17</sup>

The Guatemalan labor code's provisions concerning the work of children under 14 have not effectively limited the number of children working. The United States Department of State reports that 5,000 children have the authorization to work but thousands more children are working without permits.<sup>18</sup> The Ministry of Labor's inspection system for enforcing child labor laws is widely viewed as inadequate.<sup>19</sup> The shortcomings are largely due to the shortage of labor inspectors and the structural weaknesses in the labor court system.<sup>20</sup> Courts are backlogged and understaffed and defendants may select the judge they will appear before. Moreover, maquila owners frequently deny entrance to labor inspectors. The United States Agency for International Development (USAID) currently has a program in Guatemala to assist with the hiring and training of labor inspectors with the aim of doubling the existing number of labor inspectors, increasing their salaries, establishing regional inspectorates, and providing technical training.<sup>21</sup>

#### B. EDUCATION LAWS

Education is compulsory in Guatemala until age 14.<sup>22</sup> Article 74 of the Guatemalan Constitution provides that:

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<sup>14</sup> Klothen at 8.

<sup>15</sup> *Codigo de Trabajo*, Article 150.

<sup>16</sup> *Id.* at Art. 148.

<sup>17</sup> *Id.* at Art. 148 and 149.

<sup>18</sup> *Country Reports on Human Rights Practices for 1993* (U.S. Department of State, February 1994) 459 [hereinafter *Country Reports*].

<sup>19</sup> Klothen at 8.

<sup>20</sup> *Country Reports* at 459

<sup>21</sup> Klothen at 8.

<sup>22</sup> *Conditions of Work Digest, Volume 10* (Geneva: International Labor Organization, 1991) 36.

*Citizens have the right and obligation to receive initial education, pre-school, primary and basic education, within the age limits established by the law. The education is free. The State shall provide for and promote scholarships and educational credits.*<sup>23</sup>

In practice, this law is not enforced. The overall national illiteracy rate is 52 percent with the rate as high as 85 percent in rural areas.<sup>24</sup> A 1989 SODIFAG study found a 90 percent illiteracy rate among indigenous children.<sup>25</sup>

### *C. INTERNATIONAL CONVENTIONS*

The Government of Guatemala is party to the UN Convention on the Rights of the Child.<sup>26</sup> Guatemala has also ratified ILO Convention No. 138 Concerning Minimum Age for Admission to Employment and Convention No. 59 Concerning Minimum Age for Admission to Employment in Industry.<sup>27</sup>

## **IV. PROGRAMS AND EFFORTS TO ADDRESS CHILD LABOR**

The administration of President Ramon de Leon Carpio has attempted, since it came into power in 1993, to improve the work of the Ministry of Labor. The number of inspectors has been increased and there has been substantial decentralization in the ministry. The Labor Ministry has also created a Task Force for Protection of Child Workers which has jurisdiction over the issuance of authorizations for work by minors, distributes materials on workers rights to child workers and provides them with alternative Sunday school programs, as well coordinating the visits of counsellors with young workers. The Labor Ministry is also currently translating child worker rights materials into indigenous languages for wider distribution.<sup>28</sup>

A number of Guatemalan NGOs are involved in advocacy work, research, and social programs designed to address the problems of child labor. Many of these programs deal exclusively with street children and the extreme conditions under which they work and live.

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<sup>23</sup> The Guatemalan Human Rights Commission, "Children and the Right to Education," Monograph No. 10 (November 1987) 2.

<sup>24</sup> *Country Reports* at 459.

<sup>25</sup> *Cited in Generalized System of Preferences (GSP) Subcommittee: 1990 GSP Annual Review, Cases" 006,010-CP-90, Guatemala* (GSP Information Center, Office of the United States Trade Representative, August 1990) 15.

<sup>26</sup> *Country Reports* at 1403.

<sup>27</sup> *List of Ratifications by Convention by Country (as at December 1992)* (Geneva: International Labor Organization, 1993).

<sup>28</sup> Klothen at 9.



## I. OVERVIEW

India has the largest number of urban and rural child workers in the world.<sup>1</sup> The Government of India acknowledges at least 17.5 million working children.<sup>2</sup> Estimates by various organizations range from 44 million<sup>3</sup> to over 100 million child workers.<sup>4</sup>

The exact number of child workers in India's export industry is not known. Major export industries which utilize child labor include hand-knotted carpets, gemstone polishing, brass and base metal articles, glass and glassware, footwear, textiles and silk, and fireworks. Children are also exploited as bonded laborers, particularly in the carpet industry.

Other industries in India alleged to use child labor are: locks; leather; pottery; granite, mica, slate mining and quarrying; auto parts and accessories; cashew processing; coir (coconut fiber) products; iron and steel products; wood, rattan, and walnut furniture; suitcases and trunks; sports goods; garments; tile; and shrimp and seafood processing. Further research is required to determine the nature and extent of child labor in these industries, as well as their link to export markets. Some of these industries, such as pottery and locks, probably produce solely for the domestic market.

## II. CHILD LABOR IN EXPORT INDUSTRIES

### HAND-KNOTTED CARPETS

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<sup>1</sup> Alec Fyfe, *Child Labor Policy and the Role of Education in India* (Geneva: International Labor Organization [unpublished manuscript], April 1994) 2 [on file] [hereinafter Fyfe].

<sup>2</sup> Estimate from the 43rd Round of the National Sample Survey conducted in 1987-1988, according to the Ministry of Labor of India [internal working document], *Child Labor in India* (1993) 2. Cited in Pharis Harvey and Lauren Riggin, *Trading Away the Future: Child labor in India's Export Industries* (International Labor Rights Education and Research Fund, May 1994) 3 [hereinafter ILRERF Report].

<sup>3</sup> The Operations Research Group-Baroda, a widely-respected social research organization in India, conducted a national survey published in 1983 of 40,000 households and concluded that approximately 44 million children work in India. This figure is the most widely accepted estimate and is often cited by the International Labor Organization and other groups. K. Khatu, A.K. Tamang, and C.R. Rao, *Working Children in India* (Baroda: Operations Research Group, 1993). Cited in ILRERF Report at 5.

<sup>4</sup> The Center for Concern for Working Children, a non-governmental organization in Bangalore, approximated the number of children who are not attending school, and put the figure of children working at 100 million. See ILRERF Report at 3. Other sources have put the figure at over 100 million. See *International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994) (Statement of South Asian Coalition on Child Servitude (SACCS), India) [hereinafter Testimony of SACCS].

Hand-knotted carpets are exported in large quantity from India to the United States and Germany. In 1993, India exported more than \$170 million worth of carpets to the United States.<sup>5</sup> Although there are weaving centers scattered throughout India, the largest centers are located in the "carpet belt" of Uttar Pradesh. Carpets are also produced in the Jammu-Kashmir region, as well as outside Jaipur in Rajasthan.<sup>6</sup>

The South Asian Coalition on Child Servitude (SACCS) estimates that there are approximately 300,000 children working in the industry.<sup>7</sup> In 1992, the American Embassy in New Delhi noted that estimates of children in the carpet industry range from 300,000 to 400,000.<sup>8</sup>

Children work in almost every stage of carpet-making. In a comprehensive May 1994 report on child labor in India, the International Labor Rights Education and Research Fund (ILRERF) asserts that children's tasks include sorting, knotting, cutting, washing, and dyeing.<sup>9</sup> They also rear sheep, roll yarn into balls, string the looms, and weave and bind carpets.<sup>10</sup> Often children begin work at six or eight years old as unpaid "apprentices."<sup>11</sup>

Child carpet weavers typically fall into four categories: unpaid children working on family looms, unpaid children working with adult family wage earners, unpaid apprentices (for approximately one year), and wage earners.<sup>12</sup> A 1992 survey conducted for the Government of India by the National Council for Applied Economic Research (NCAER) estimated that 8 percent of the total work force in the hand-knotted carpet industry is child labor.<sup>13</sup> A 1993 report published by the International Labor Organization estimates that the ration of adult to child workers in the carpet industry of Mirzapur-Bhadohi is 1:2.254.<sup>14</sup> Of the 500 carpet children surveyed by the NCAER, the average daily wage was 12.20 rupees (approximately 42 cents); the survey found that wages were

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<sup>5</sup> ILRERF Report at 36 (citing U.S. Department of Commerce statistics).

<sup>6</sup> *Id.* at 53.

<sup>7</sup> Testimony of SACCS.

<sup>8</sup> American Embassy-New Delhi unclassified telegram no. 7883, April 22, 1992.

<sup>9</sup> ILRERF Report at 56. According to the NCAER study, carpet children perform related jobs including unraveling woolen yarn and knotting carpets. *See* S. Vijayagopalan, *Child Labor in the Carpet Industry: A Status Report* (New Delhi: National Council of Applied Economic Research (NCAER), February 1993) 43-44 [hereinafter 1993 NCAER Report].

<sup>10</sup> M. Gupta and K. Voll, *Young Hands At Work* (New Delhi: Atma Ram and Sons, 1987) 49, cited in ILRERF Report at 54.

<sup>11</sup> ILRERF Report at 56. *See also* 1993 NCAER Report at 23. In 1992, the National Council of Applied Economic Research (NCAER) found six to eight year old children working in the carpet industry.

<sup>12</sup> ILRERF Report at 57.

<sup>13</sup> 1993 NCAER Report at 21.

<sup>14</sup> B.N. Juyal, *Child Labor in the Carpet Industry in Mirzapur-Bhadohi: A Situational Analysis & Evaluation of the Government of India's National Child Labor Project* (New Delhi: International Labor Organization Child Labor Action and Support Project, 1993) 33 [hereinafter Juyal].

not promptly disbursed.<sup>15</sup> Often both adults and children are paid per square yard, which makes the weavers work very long hours.<sup>16</sup> A review of current literature indicates that children work an average of six to twelve hours a day.<sup>17</sup>

Most looms are located in earthen shacks or sheds scattered throughout villages. These sheds are similar to a typical lodging for a family in a rural village. Only a small percentage of carpet production actually occurs in factories (housing multiple looms). The NCAER study found that 91 percent of the children sampled lived and slept in weaving sheds, and basic amenities, such as light, ventilation, and toilets were deficient or unavailable.<sup>18</sup> Anti-Slavery International described loom sheds as small, seldom more than twelve feet by nine feet, with very little light.<sup>19</sup> Trenches about 3 feet deep and 21 feet wide are dug into the floor to accommodate the looms which are too high for the sheds. During the weaving process, three to six children and/or adults sit shoulder to shoulder. Usually there are one adult and two boys per loom, sitting in damp pits, which fill up with water during the monsoon season.<sup>20</sup>

Children are charged for meals, which include a few chapatis (bread), onions, and salt.<sup>21</sup> They also suffer health-related problems. The NCAER 1993 study found that cuts and injuries were common. Over 90 percent of the children complained of swelling of lower limbs and severe pain in the joints.<sup>22</sup> Children also came into constant contact with woolen fluff causing skin troubles including scabies and respiratory ailments. Work in ill-lit sheds impacted the eyesight of 40 percent of the children.<sup>23</sup> Similarly, SACCS reveals that bonded children rescued from the carpet looms say they were overworked and beaten. When children suffered cuts to the fingers during weaving, the loom owners scrape sulphur from matches heads into the wound and then set the wound on fire to stop the bleeding.<sup>24</sup> In addition, children have also been known to suffer loss of eyesight due to poor lighting

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<sup>15</sup> Almost 80 percent of the children reported that they were paid only in installments. Many were not aware of their exact monthly earnings. 1993 NCAER Report at 51.

<sup>16</sup> ILRERF Report at 57.

<sup>17</sup> The American Embassy-New Delhi found estimates of children working in excess of 12 hours per day. American Embassy-New Delhi unclassified telegram no. 7883, April 22, 1992. The NCAER also found that children working on family looms worked an average of 6 hours a day, while hired wage earning children worked 9.2 hours a day. See 1993 NCAER at 45. See also Hamish MacDonald, "India: Boys of Bondage," *Far Eastern Economic Review*, July 9, 1992, 18-19, (quoting Indian sociologist B.N. Juyal) [hereinafter MacDonald].

<sup>18</sup> See Table 37 of 1993 NCAER Report at 56.

<sup>19</sup> *A Pattern of Slavery: India's Carpet Boys* (London: Anti-Slavery International, 1988) 20.

<sup>20</sup> See also ILRERF Report at 57.

<sup>21</sup> ILRERF Report at 57. See also Juyal at 66. Migrant child workers are charged approximately 150-175 rupees (\$5-\$6) per month for food.

<sup>22</sup> 1993 NCAER Report at 56.

<sup>23</sup> 1993 NCAER Report at 57.

<sup>24</sup> Stephen Wagstyl, "The child victims of India's slave trade: India's poor sell their children as cheap labor without suspecting the true nature of the transaction," *Financial Times*, December 19, 1992, 1 [hereinafter Wagstyl]. Barbara Walton, "Carpet factory raided in India to free enslaved children," *Associated Press*, November 7, 1992. See also ILRERF Report at 59.

and deformed backs due to long hours of sitting in cramped conditions.<sup>25</sup> Children suffer from psychological distress,<sup>26</sup> and are beaten and even tortured if they attempt to escape from the looms.<sup>27</sup> Some reports describe children beaten to death by loom owners for making mistakes.<sup>28</sup>

Numerous stories about children published in newspaper reports and non-governmental periodicals describe bonded child labor in the carpet industry.<sup>29</sup> Many children who work in the carpet belt are sold into debt bondage by their parents, or merely taken with promises of future payments.<sup>30</sup> A Fact Finding Committee commissioned by the Order of the Supreme Court of India confirmed that a large number of children work as bonded laborers in the carpet industry.<sup>31</sup> The vast majority come from the poorest part of Bihar, the most impoverished state in India.<sup>32</sup> In the bonded labor system, recruiters give parents a cash advance or "loan." The child is often taken far away to weave carpets in order to work off the family debt. The debt is rarely paid off and indebtedness may carry on for generations. The child is, in effect, an indentured servant with virtually no rights and no protections. In cases where a bonded child is sent to work with a family, his treatment is significantly worse than the other non-bonded children.

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<sup>25</sup> "ILO help sought to tackle child labor problems," *The Indian Worker*, August 2, 1992, 5. Christopher Thomas, "Carpet traders ordered to free child slaves," *The Times (India)*, July 27, 1993.

<sup>26</sup> Wagstyl at 1.

<sup>27</sup> The observations of the Fact Finding Committee appointed August 1, 1991 by Order of the Supreme Court of India in Writ Petition No. 12125 of 1984. *Cited in Children in Bondage* (Geneva: International Labor Organization, 1992) 13.

<sup>28</sup> Interviews with CREDA and Bonded Labor Liberation Front, Mirzapur, by U.S. Department of Labor official, May 7, 1994.

<sup>29</sup> For some of the stories see Vijay Joshi, "Kids bound to the looms," *Associated Press*, July 14, 1994; "Freed children recount torture, slavery in carpet industry," *Agence France Presse*, September 8, 1992; "Bonded child laborers kidnapped after rescue," *The Economic Times (India)*, October 7, 1993; "Fear stalks rescued kids," *The Times of India*, January 12, 1994; "Nine bonded children freed from carpet looms in Mirzapur," *The Indian Worker*, November 30, 1992; Barbara Walton, "Carpet factory raided to free enslaved children," *Associated Press*, November 7, 1992; "The March to Delhi," *Child Workers in Asia*, vol. 4, no. 9, no. 1, (October-December 1992 and March 1993) 28; and ILRERF Report at 57-59.

<sup>30</sup> See Edward Gargan, "Bound to Looms by Poverty and Fear: Boys in India Make A few Men Rich," *New York Times*, July 9, 1992. The NCAER study also confirms this phenomenon and notes that lump sum payments of 2,300 to 2,800 rupees (\$78-\$95) to parents was a universal feature in contracting hired child labor. 1993 NCAER Report at 41.

<sup>31</sup> *Children in Bondage* (Geneva: International Labor Organization, 1992) 12.

<sup>32</sup> Agents travel great distances to recruit and even kidnap children from the poorest parts of India. The child becomes "bonded" to the employer when he is in effect sold outright for a fixed sum or when parents are enticed to "loan him out" in exchange for money used to purchase livestock, pay for a marriage, and other expenses. ILRERF Report at 57. A literature review and numerous interviews with officials in India indicate that Bihar is the "catchment" area for child workers in the Mirzapur-Bhadohi carpet industry (especially from the Palamau, Rohtas, Saharsa, Ranchi, and Garawa districts).

When parents are in fact paid, the going rate for an eight year old boy is 1,500-2,000 rupees (\$50-\$60), a substantial sum for many families. Once the deal is struck, the recruiter will take a group of children at a time by bus and train to the "carpet belt", usually to the town of Bhadohi, where loom owners come to pick up their new workers. Reports have surfaced alleging that Nepali women and children are now also working in the Indian carpet industry. The Bonded Labor Liberation Front, together with local authorities, raided a small carpet factory in Mirzapur earlier this year, finding 86 Nepalis locked into a tin shed. Eyewitness reports confirm that children from Nepal are working in India's carpet industry. It is unclear, however, whether they arrive in India with their families voluntarily or whether they are forcibly brought into the carpet centers of India. News reports abound of similar carpet "factories" in Mirzapur and Bhadohi housing large numbers of migrant laborers locked into their place of work.

## GEMSTONE POLISHING

In 1993, India exported more than \$1 billion worth of gems,<sup>33</sup> which is the largest export by value from India to the United States. The majority of these exports are diamonds, which are processed and polished in Surat, Gujarat, and emeralds which are polished in Jaipur, Rajasthan. Some sources allege that anywhere between 6,000 and 100,000 children are working in the diamond industry, cutting and polishing diamond chips.<sup>34</sup> These figures are uncorroborated.

The Operations Research Group in its 1993 report singled out the diamond-cutting industry in Surat, Gujarat, of special concern for child labor.<sup>35</sup> It found children, mostly boys between 12 and 13 years old, polishing diamonds for an average of seven to nine hours a day in unhygienic conditions.<sup>36</sup> This study also found major health and safety problems, including eye strain, headaches, leg and shoulder pain, malaria, discoloration of hair, rotten teeth, and dysentery. Wage rates were similar to adults; children, who received wages based on the number of diamonds they polished, reported a monthly income of 930 rupees (approximately \$30). The Indian government, under its National Plan of Action, has targeted, on a priority basis, the diamond polishing industry in Surat as one of nine industries in which it will develop a Child Labor project.<sup>37</sup>

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<sup>33</sup> ILRERF at 36 *citing* U.S. Department of Commerce statistics for 1993.

<sup>34</sup> *See* ILRERF Report at 60.

<sup>35</sup> *Child Labor in Different Studies: Consolidated Report* (Madras: Operations Research Group, 1993) *cited* in ILRERF Report at 60.

<sup>36</sup> *Child Labor in Different Industries: Consolidated Report*, (Madras: Operations Research Group, 1993) 66. *See also* ILRERF Report at 61.

<sup>37</sup> *See International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994) (Statement of the Embassy of India) [hereinafter Testimony of Embassy of India]. *See also* Fyfe at 6-11.

In addition to diamonds, children also polish emeralds, sapphires, rubies, lapis lazuli, turquoise, corals, garnets, amethysts, and topaz.<sup>38</sup> Estimates of child workers in the gem industry in Jaipur range from 7,000 to 13,000.<sup>39</sup>

A 1991 study by the Institute of Development Studies in Jaipur provides extensive documentation of child labor in the gem industry of Jaipur.<sup>40</sup> For example, the study cites a 12 year old girl using a drilling machine, children stringing gems, a 14 year-old girl cutting tiger stone, turquoise, amethysts and garnet, and a 9 year-old boy polishing stones.<sup>41</sup>

According to noted academic Neera Burra there are two categories of children working in the gem industry in Jaipur: 1) Children from 6 to 10 years old belonging to families of manual laborers and poorly paid people. These children work from 8 a.m. to 6 p.m. and are completely illiterate; and 2) Children from 10 to 14 years old belonging to families with a fairly steady income. These children go to government schools and work about four hours a day after school.<sup>42</sup>

According to Burra's 1991 study, children are involved in large numbers in the making of the "ghats"(rough cut stones), faceting and polishing of semi-precious stones. In the precious stone industries, children use oxides in the final stages of gem-polishing. In fact, in the final polishing with oxides, the entire labor force consists of children below fourteen.<sup>43</sup> Burra found that although children in the gem polishing industry are engaged as "apprentices," they are in fact a source of cheap labor.<sup>44</sup> The learning process takes five to seven years -- during the first two years children receive little or no remuneration. Children work for 10 hours a day. After the two years, a child worker is paid 50 rupees per month (approximately \$1.70).<sup>45</sup>

According to the Burra, local doctors revealed that more than 30 percent of the children get tuberculosis, presumably due to unhygienic conditions, overcrowding, and malnutrition.<sup>46</sup> Children complain of body ache

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<sup>38</sup> Neera Burra, *Child Labor in the Gem Polishing Industry in Jaipur* (Noida: Child Labor Cell, National Labor Institute, January 1991) 8 [hereinafter Burra, *Gem Polishing*].

<sup>39</sup> The 1979 study by the Gurupadaswamy Committee concluded that there were at least 10,000 children, while Neera Burra's report for the Ministry of Labor and UNICEF, published by the Child Labor Cell in January 1991, documented 13,000 children. *Id.* at 8-9.

<sup>40</sup> See generally *Child Labor in the Gem Polishing Industry of Jaipur* (Jaipur: Institute of Development Studies, August 1991).

<sup>41</sup> *Id.* at 21-32. During a May 1994 trip to Jaipur, a U.S. Department of Labor official observed numerous small street-side gem-polishing enterprises where boys as young as 10 or 11 were polishing emeralds and other gemstones. The official was told that agents sold the rough gems to the small shops and repurchased only the acceptable polished gems.

<sup>42</sup> Burra, *Gem Polishing* at 13.

<sup>43</sup> *Id.* at 11.

<sup>44</sup> *Id.* at 13.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* at 14.

and finger tips grazed by the polishing disc. The most common complaint was eye strain and allergic dermatitis due to constant use of dirty water.<sup>47</sup>

## **BRASSWARE AND BASE METAL ARTICLES**

Brass products, such as vases, figurines, planters, plates, dinner services, and tea sets are made in Moradabad in Uttar Pradesh, and exported all over the world, including to the United States.<sup>48</sup> It is reported that more than 90 percent of the goods produced in Moradabad are intended for export.<sup>49</sup> The brass industry is made up of numerous unregistered shops in the guise of household units, thereby skirting child labor regulations.<sup>50</sup>

The Operations Research Group documented occupational hazards of children working in the brass industry in 1993 and found that the average income of a child was 174 rupees per month (approximately \$6) for eight to 10 hours of work six days per week.<sup>51</sup> A dated, but detailed, study by Neera Burra in 1989 estimated that 40,000 to 45,000 children work in the brass industry in Moradabad.<sup>52</sup> Children were recruited by middlemen called "dalals," who receive a commission from the employers for finding child workers. Contractors, or "thekedars," and workshop owners prefer children because they are easy to control.<sup>53</sup> Burra notes that, except for the process of engraving and coloring, child workers in the brass industry do not work with their families. Almost all the children in Moradabad work as wage laborers and are unrelated to workshop owners.<sup>54</sup>

Children work in almost all aspects of brassware production for long hours and low wages, and are exposed to health hazards. Children remove molten metal from molds near furnaces. Burra observed these children standing, without protective gear, on top of furnaces with a temperature of 1,100 degrees celsius (approximately 2,000 degrees fahrenheit). Burns were a constant danger. Children were also observed working in electroplating, polishing, and applying chemicals to the wares. The constant inhalation of fumes from the furnaces and metal dust leads to tuberculosis and respiratory problems. During acid washing of the brassware, Burra noted that green and blue vapors rising into the air cause irritation to the eyes.<sup>55</sup>

## **GLASS AND GLASSWARE**

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<sup>47</sup> *Id.*

<sup>48</sup> Neera Burra, *Child Labor in the Brassware Industry of Moradabad* (New Delhi: International Labor Organization/Asian Regional Team for Employment Promotion, January 1989) 15 [hereinafter Burra, *Brassware Industry*].

<sup>49</sup> *Id.* at 4.

<sup>50</sup> *Id.* at 31.

<sup>51</sup> *Children in Different Industries* (Operations Research Group, 1993) 56, 66 cited in ILRERF Report at 51-52.

<sup>52</sup> Most of these children are Muslims. The rest are Hindus primarily from socially disadvantaged castes. Burra, *Brassware Industry* at 26.

<sup>53</sup> *Id.* at 26-27.

<sup>54</sup> *Id.* at 31.

<sup>55</sup> *Id.* at 14.

In 1992, India exported more than \$2 million worth of glass and glassware to the United States.<sup>56</sup> Estimates of the number of children working in the glass industry range from 8,000 to 50,000.<sup>57</sup> The glass and glassware industry in India is concentrated in Ferozabad. The glass factories of Ferozabad produce a number of glass items, such as bangles, chandeliers, wine glasses, beads, crockery, bulbs, and cut glass items. The factories also produce test tubes, beakers, and laboratory glass products.<sup>58</sup>

The ILRERF Report referred to a glass-factory floor as Dante's "*Inferno*" due to the intense heat of the furnace (between 1,400-1,600 celsius), lack of ventilation, broken glass everywhere, dangling electric wires, and workers with no protective equipment (no shoes, gloves or goggles).<sup>59</sup> Both adult and child workers stand outside furnaces dipping iron rods into molten glass, bringing it out, and throwing it to glass molders or blowers. Boys as young as 11 or 12 sit on the floor for long hours in front of the pot furnaces, melting and fastening glass bangles and beads.<sup>60</sup> Often glass splinters injure the workers, and pieces of glass cut into the bare feet of the children. The children bump into each other as they have to run very fast before the molten glass can cool, and may scorch each other's bodies.

An earlier study in 1987 by Cox newspaper reporters found boys under 14 running from the furnaces to the glass blower carrying molten glass.<sup>61</sup> The glass blower would then throw the hot iron pole, javelin style, to a child several feet below him, who would put water on it. The reporters observed children walking barefoot over glass littered floors, some with scarred eyes and burnt scalps.

In addition, children of the glass factories in Ferozabad suffer mental retardation,<sup>62</sup> asthma, bronchitis, eye problems, liver ailments, skin burns, chronic anemia, and tuberculosis.<sup>63</sup> A recent study by Dr. Asha Singh of the Maulana Azad Medical College in New Delhi revealed genetic damage in the body cells of the laborers working close to furnace heat for three years or more.<sup>64</sup>

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<sup>56</sup> *U.S. Merchandise Trade: Exports and General Imports by Country* (Washington, D.C.: U.S. Department of Commerce, 1993) A-201.

<sup>57</sup> See American Embassy-New Delhi unclassified telegram no. 21518, November 19, 1993. See also Neera Burra, "Glass factories of Ferozabad," *Economic and Political Weekly* (November 15-22, 1986).

<sup>58</sup> Joseph Albright, "Illegal Labor casts a Long Shadow," in *Stolen Childhood*, Cox Newspaper (June 21-26, 1987) 19.

<sup>59</sup> ILRERF Report at 67-68. Visits by Departments of Labor and State officials confirmed the ILRERF's description of conditions in glass factories.

<sup>60</sup> ILRERF Report at 69.

<sup>61</sup> Marcia Kunstel and Joseph Albright, "Jugglers of Molten Glass: Indian Boys Race Through Smokey factories," in *Stolen Childhood*, Cox newspapers (June 21-26, 1987) 15.

<sup>62</sup> *Carpets At What Cost*, Consumer Unity and Trust Society [brochure], 3 [on file].

<sup>63</sup> "Abuses Against Children," *Asia Link* (October-December 1993) reprinted in *Child Workers News*, vol 2, no. 1 (Madras: Arunodhaya, January-March 1994) 4 [on file].

<sup>64</sup> Sheela Barse, "Glass Factories of Ferozabad," reprinted in Jose Verghese, *Human Rights in India Today* (New Delhi: National Center for Protection of Human Rights, 1992).



## FOOTWEAR

In 1993, India exported more than \$107 million worth of footwear to the United States.<sup>65</sup> The American Embassy-New Delhi advises that "child labor is known or widely believed to be used in the shoe export industry."<sup>66</sup> The American embassy further states that children are employed in the manufacture of shoes in the Agra area and that Agra shoe manufacturers are beginning to find markets in the West, possibly including the United States. Some sources estimate that as many as 25,000 children may be involved in shoe making, both for the domestic and international markets.<sup>67</sup>

Children between 10 and 15 years old are assembling shoes.<sup>68</sup> Some 80 percent of the children work for contractors at home. Children work on soling (fixing upper portions of shoes to leather or rubber soles) with glue. Children in cramped poorly lit rooms suffer from continuous skin contact with industrial adhesives and breathing vapors from glues. The ILRERF report found children working in shoe factories throughout Agra, including road stalls, and in small factories. It is reported that children also work in larger factories.<sup>69</sup>

## SILK

Children are allegedly found in sericulture, silk weaving, and in the silk handloom industry. The May 1994 ILRERF report states that children, mostly girls, work in the silk industries. Children work in sericulture and silk thread spinning in the villages of southern Karnataka, as well as in silk handlooms in Varanasi and Kanchipuram. There are approximately 5,000 children employed in the silk thread industry in southern Karnataka.<sup>70</sup> ILRERF observed factories with children ranging in age from 5 to 16 who work from 7 a.m. to 9 p.m. spinning silk.<sup>71</sup> Another factory was found to employ young bonded workers, mostly girls. In contrast to the sericulture and silk thread weaving industry, it is difficult to witness child labor in the silk handloom industry, as it is a household industry.<sup>72</sup>

A 1994 study mentions that because of scant governmental attention paid to child labor in the silk industry, a growing number of children are working in the industry in Bhagalpur.<sup>73</sup> The study was drawn from a sample

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<sup>65</sup> Search of *Piers Import database* (Journal of Commerce, 1994); see also U.S. Imports (U.S. Department of Commerce, 1993) reprinted in ILRERF Report at 36.

<sup>66</sup> American Embassy-New Delhi unclassified telegram no. 21518, November 19, 1993.

<sup>67</sup> ILRERF Report at 72.

<sup>68</sup> American Embassy-New Delhi unclassified telegram no. 7883, April 22, 1992.

<sup>69</sup> ILRERF Report at 72.

<sup>70</sup> ILRERF Report at 76.

<sup>71</sup> ILRERF Report at 74-75.

<sup>72</sup> ILRERF Report at 76.

<sup>73</sup> Nidhi Sinha, *Child Labor in the Indian Silk Industry* (New Delhi: Uppal Publishing House, January 1994) 58, 87 [hereinafter Sinha].

of 250 child workers under 14 years of age in the silk industry in Bhagalpur.<sup>74</sup> Most child workers were between 11 and 13 years old, the smallest children being 5 years old.<sup>75</sup> The majority of the child workers received 5,000 to 10,000 rupees per year (\$170-\$340).<sup>76</sup> The largest number of children belonged to a disadvantaged class or are Muslims.<sup>77</sup> Moreover, data revealed that there were more boys than girls in this industry, and girls were generally below the age of 10.<sup>78</sup> Some of the health hazards include poor work conditions (lack of sanitation, water, and fresh air), diseases of the lungs and sight problems.<sup>79</sup> The Central Tassar Research Training Institute in Ranchi stated that silk weavers suffer from heart and skin diseases, and various other lung diseases.<sup>80</sup>

The study notes that children are involved in virtually the entire process (about 14 phases) of silk manufacturing. Specifically, children dye the silk. This process involves boiling the skeins in water to remove the gum. The children then place the yarn on bamboo hangers for drying, after which, it is starched. Children about 14 years old commonly put prepared yarns on beams, weave the silk and then take it to the market.<sup>81</sup>

*The Times of India* in Patna on March 27, 1988 reported that silk made in Bhagalpur Tassar is exported to the United States, as well as to some European countries.<sup>82</sup>

## MATCHES AND FIREWORKS

The fireworks and match industries of Sivakasi exist side by side, and therefore, reports study the industries together. The United States' importation of matches and fireworks/pyrotechnics from India is minimal.

According to the available literature, it is estimated that there are 50,000<sup>83</sup> to 100,000<sup>84</sup> child workers in the Sivakasi area working in the match and fireworks industries.<sup>85</sup> Overall, there are approximately 2,700<sup>86</sup> to

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<sup>74</sup> *Id.* at 101.

<sup>75</sup> *Id.* at 103.

<sup>76</sup> *Id.* at 107.

<sup>77</sup> *Id.* at 108.

<sup>78</sup> *Id.* at 109-110.

<sup>79</sup> *Id.* at 119-121.

<sup>80</sup> *Id.* at 87.

<sup>81</sup> *Id.* at 59.

<sup>82</sup> Sinha at 87.

<sup>83</sup> Manjari Dingwaney with Sunil Dogra, R. Vidyasagar, and Renu Gupta, *Children of Darkness: A Manual on Child Labor in India* (New Delhi: Rural Labor Cell, 1988) 8 [hereinafter Dingwaney et al].

<sup>84</sup> American Consulate-Madras unclassified telegram no. 944, March 13, 1992.

<sup>85</sup> Dingwaney et al at 8.

<sup>86</sup> ILRERF Report at 81.

3,000<sup>87</sup> match units in Sivakasi and the Sivakasi-Sattur belt which produce 55 percent of the matches in India.<sup>88</sup> An ICFTU/APRO study in 1992 estimated that 55 percent of the workers are below 14 years. Many begin working at age five to seven.

According to findings by the ICFTU-APRO study in 1992, there are approximately 300 licensed fireworks factories and several hundred unlicensed units. These units account for 90 percent of India's fireworks production.<sup>89</sup> Most of the items are used for Diwali (Festival of Lights). Estimates of the number of children working in Sivakasi's fireworks industry range from over 30,000<sup>90</sup> to 70,000, according to SACCS.<sup>91</sup> The children are reported to begin working in the fireworks industry at the age of 10 or 12.<sup>92</sup> According to Manjari Dingwaney of the Rural Labor Cell (India), children are carried in buses from their villages to the work sites between 3 a.m. and 5 a.m. in the morning and return home between 6 p.m. and 9 p.m.<sup>93</sup> Children dye outer paper, roll gun powder, make firecrackers, dip material into chemicals, and pack the final products for seven to twelve hours a day every day.<sup>94</sup>

According to the ICFTU, children in semi-mechanized industries earn 15 to 18 rupees a day (approximately 51 to 62 cents), but those who work in tiny sector match units or unlicensed fireworks units only receive 8 to 15 rupees (approximately 28 to 51 cents).<sup>95</sup> The ILRERF found that children were paid on a piece rate basis which varied between boys and girls.<sup>96</sup>

Hazardous work environments in match and firework factories, including highly inflammable chemicals spread on the unprotected floor have resulted in fatal accidents.<sup>97</sup>

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<sup>87</sup> *Pilot Study of Child Labor in Sivakasi* (New Delhi: ICFTU-APRO, South Asia Office, 1992) 4 [on file] [hereinafter ICFTU-APRO].

<sup>88</sup> *Id.* at 4.

<sup>89</sup> ICFTU-APRO at 4.

<sup>90</sup> Letter from Campaign Against Child Labor to the Prime Minister of India (October 11, 1993) [on file].

<sup>91</sup> Peter Goodspeed, "10 Million Suffer Ugly Reality of Child Slavery," *The Toronto Star*, February 2, 1993, A2.

<sup>92</sup> ICFTU-APRO at 4.

<sup>93</sup> Dingwaney et al at 8.

<sup>94</sup> See ILRERF Report at 81-82. See also K. Mahajan and J. Gathia, *Child Labor: An Analytical Study* (New Delhi: Center of Concern for Child Labor, September 1992) 27; and Dingwaney et al at 8.

<sup>95</sup> ICFTU-APRO at 7.

<sup>96</sup> ILRERF Report at 82.

<sup>97</sup> ICFTU-APRO at 10. On October 11, 1993, The Campaign Against Child Labor (CACL) urged Prime Minister Narasimha Rao to appeal to the nation not to use firecrackers made by children during Diwali. ILRERF Report at 82. See also Mahajan and Gathia at 27; Dingwaney et al at 8.

### III. LAWS OF INDIA

#### A. NATIONAL CHILD LABOR LAWS

Article 24 of the Constitution of India prohibits employment of children under 14 years in factories, mines, or other hazardous employment. India has numerous laws pertaining to child labor which span over 100 years.<sup>98</sup> The Children (Pledging of Labor) Act, 1933 prohibits any agreement to pledge the labor of a child. Pledging means the taking of advances by parents and guardians in return for bonds.<sup>99</sup>

In 1986, the Child Labor (Prohibition & Regulation) Act,<sup>100</sup> was promulgated to consolidate the various other child labor laws. It provides penalties for employing child labor; a uniform definition of "child" (14 years or under); machinery for proclaiming a list of prohibited occupations for children; and permission for any person to file a complaint against anyone employing children. Proscribed occupations include: carpet weaving, cloth printing, dyeing, weaving, manufacture of matches, fireworks, and explosives. The 1986 Act also limits child work for six hours between 8 a.m. and 7 p.m. with one day of rest per week, and provides penalties of imprisonment and fine up to 10,000 rupees (approximately \$340) for violations. For repeated offenses, imprisonment can be up to three years.

Critics of the Child Labor Act of 1986 note that the determination of age is left to the Inspector, and that the Act lowers some higher standards established by earlier acts.<sup>101</sup> More specifically, the 1986 Act: lowers the age of entry for employment in motor transport, merchant shipping, and factories; puts child workers in agriculture or the unorganized sector outside the reach of the Act, and provides exemptions for family-based work.<sup>102</sup> According to Dr. Jose Verghese, an advocate at the Supreme Court of India, labor statistics for 1992-1993 show that there were 349 prosecutions and 162 convictions under the Child Labor (Prohibition and Regulation) Act

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<sup>98</sup> Dingwaney et al at 130. *See* Dingwaney for a comprehensive history of child labor legislation in India. Recent laws include The Factories Act, 1948; the Minimum Wages Act, 1948; the Employment of Children (Amendment) Act of 1949; the Employment of Children (Amendment) Act of 1951; The Mines Act, 1952; The Factories (Amendment) Act of 1954; The Merchant Shipping Act of 1958; The Motor Transport Worker's Act of 1961; The Apprentices Act of 1961; The Beedi and Cigar Workers (Conditions of Employment) Act 1966; and the Employment of Children (Amendment) Act of 1978.

<sup>99</sup> The practice of pledging was noticed by the Royal Commission on Labor in such areas as Amritsar, Ahmedabad, Madras, etc, in carpet and bidi (cigarette) industries:

*The system is indefensible. It is worse than the system of indentured labor, for the indentured laborer is, when he enters on the contract, a free agent, while the child is not. (cited in Dingwaney et al at 131).*

<sup>100</sup> For details *see* "Report of the Task Force on the Implementation of the Child labor (Prohibition & Regulation) Act" and the Legal Action Plan contained in the National Child Labor Policy, constituted by the Central Advisory Committee on Child Labor, Ministry of Labor (1989).

<sup>101</sup> Dr. Jose Verghese, *Law Relating to the Employment of Children in India* (Secunderabad: Socio-Legal Resource Center, 1989) 14. *Cited in* ILRERF Report at 28.

<sup>102</sup> For further discussion of the 1986 Child Labor Act, *see* ILRERF Report at 29-34.

of 1986.<sup>103</sup> The record shows that Uttar Pradesh was the only state with convictions under the Child Labor Act of 1986.

The Government of India has reportedly approved draft legislation to tighten provisions of the Child Labor (Prohibition and Regulation) Act of 1986 and improve enforcement.<sup>104</sup> The amendments would make violations of the law subject to the provisions of India's "Code of Criminal Procedure 1973," increase penalties, and empower Magistrates to dispose of cases speedily.

The enforcement of child labor laws, however, is weak in India. The Standing Committee on Labor and Welfare and the Ministry of Labor found inadequate enforcement of the Child Labor Act of 1986 by the States.<sup>105</sup> This Committee questioned the commitment of the Central Government to eliminating child labor. The 1993 Operations Research Group study was even more critical; it concluded, "[S]heer callousness, almost bordering on sadism, on the part of government officials is the main reason for the exacerbation of the sufferings of the child labor."<sup>106</sup>

The implementation of child labor legislation in India is entrusted to labor inspectors, representatives of the Ministry of Labor at the district level.<sup>107</sup> Labor inspectors are responsible for ensuring that no child below the stipulated age is employed. The judicial department inquires into complaints. Enforcement is divided; some labor inspectors enforce the Factories Act; others enforce the Child Labor Act of 1986. While conducting seminars for enforcement officials, the National Labor Institute's Child Labor Cell instructors found that many inspectors were uninformed about the laws.<sup>108</sup> Moreover, credible sources maintain that rampant corruption further compromised enforcement of child labor laws. Finally, there is a lack of labor inspectors. For example, in the carpet industry, Varanasi Deputy Labor Commissioner, D.P. Singh said his office had only six inspectors (two of them for Bhadohi). Inspectors were generally not welcome in the loom sheds and found that children were shifted out of sight when they arrived.<sup>109</sup>

## B. EDUCATION LAWS

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<sup>103</sup> Letter from Dr. Jose P. Verghese, Advocate of Supreme Court of India, to International Child Labor Study (June 25, 1994). During a visit to India by a U.S. Department of Labor Official, an Indian government official maintained that there were 6,784 prosecutions and 1,007 convictions in 1993-1994 under both the Factories Act and the Child Labor Act of 1986 [chart on file]. Despite repeated requests by the Department of Labor official, the Indian government did not provide a breakdown to determine if any of these prosecutions and convictions were under the 1986 Child Labor Act.

<sup>104</sup> Testimony of the Embassy of India.

<sup>105</sup> *The 3rd report: Standing Committee on Labor and Welfare (1993-1994)* (10th Lok Sabha) Ministry of Labor - Abolition of Child Labor, published by the Lok Sabha Secretariat, New Delhi, October 1993, 15 §2.23.

<sup>106</sup> ILRERF Report at 14.

<sup>107</sup> G. Suvarchala, "Legislation to Combat Child Labor: An International Perspective," *Industrial Relations Journal* (Spring 1992) 50 [hereinafter Suvarchala].

<sup>108</sup> ILRERF Report at 15.

<sup>109</sup> Hamish McDonald at 18-19 (1992).

Although the Constitution of India directs the States to provide free and compulsory education to all children up to 14 years of age,<sup>110</sup> it is not implemented. India has one of the highest illiteracy rates in the world,<sup>111</sup> in addition to a very high drop out rate from school.<sup>112</sup>

Myron Weiner, professor at Massachusetts Institute of Technology who has written extensively on education in India, attributes the prevalence of child labor in India largely to the failure of the educational system. Professor Weiner notes that, due to a lack of compulsory education,<sup>113</sup> half the population of school age children between 6 and 14 years old is at home or in the labor force. Weiner argues that it is not poverty which prevents India from investing more in its children, but rather the caste prejudices and value systems of those who create and implement policy in India. Professor Weiner notes, however, that the central government is calling for a substantial increase in expenditures for elementary education, though responsibility for funding remains primarily in the hands of state governments.<sup>114</sup> Alec Fyfe of the International Labor Organization also emphasizes the importance of viewing child labor and educational policies as reciprocal within the context of India.<sup>115</sup>

### C. INTERNATIONAL CONVENTIONS

India is a party to ILO No. Convention 5 Concerning Minimum Age for Admission to Employment in Industry (predecessor to No. 59) and the U.N. Convention on the Rights of the Child. India is not a party to ILO Conventions No. 59 Concerning Minimum Age for Industry [revised]) or No. ILO Convention 138 Concerning Minimum Age for Admission to Employment.<sup>116</sup>

## IV. PROGRAMS AND EFFORTS TO ADDRESS CHILD LABOR

According to the written testimony submitted by the Embassy of India to the Department of Labor, the Indian government has followed a 3-pronged strategy for child labor eradication under the National Policy of Child Labor in 1987:<sup>117</sup>

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<sup>110</sup> Article 45 of the Constitution of India.

<sup>111</sup> David Housego, "Survey of India," *Financial Times*, June 26, 1992.

<sup>112</sup> The World Bank and other donor nations are reportedly pressuring India to make universal primary education a priority. Ms. E. Watanabe, then representative of UNICEF-New Delhi, stated "If there is good quality primary education, I am convinced that the great majority of parents would want to send their children to school." *Id.*

<sup>113</sup> Myron Weiner, "The Child and the State in India: How do you end child labor?," (Paper for presentation at the 87th annual meeting of the American Sociological Association, August 21, 1992, Pittsburgh, Pennsylvania) 2 [on file].

<sup>114</sup> *Id.* at 15.

<sup>115</sup> Making education the central activity of childhood reduces the potential danger of the work children may still do. Schools can also be a delivery mechanism for important complementary services. Alec Fyfe, *Child Labor Policy and the Role of Education in India*, [unpublished paper] (Geneva: International Labor Organization, 1994) 35 [on file].

<sup>116</sup> *Lists of Ratifications by Convention and by Country (as at December 1992)* (Geneva: International Labor Organization, 1993).

<sup>117</sup> Testimony of the Embassy of India.

(1) The Legislative Action Plan to tighten and improve enforcement of the law. A Child Labor Advisory Committee was set up to advise the Central Government on the addition of occupations and processes to the schedule contained in Child Labor (Prohibition & Regulation) Act of 1986.

(2) General development programs benefitting child labor are being undertaken by State Governments. The National Policy on Education (1986) set the target of providing five years of schooling or its equivalent, through a "Non-Formal System of Education" (NFE), to all children who attained the age of 11 by 1990. Approximately 490,000 NFE centers were to be set up offering part-time and vocational courses. Voluntary agencies and local institutions were to be involved as well.<sup>118</sup>

(3) Project-based Plan of Action in areas of high concentration of child labor engaged in wage and quasi-wage employment. This plan includes the adoption of specific projects/programs in areas where child labor is endemic. Nine National Child Labor projects are being implemented in five states and special schools have been set up which provide non-formal education.<sup>119</sup> Child workers in the many sectors were to receive priority attention because either the employment processes in which they work were prohibited under the Factories Act, or the Child Labor Act of 1986, or the work was such as it was likely to affect the child's well-being.

The International Labor Organization and the Government of India are working in cooperation under the International Program on the Elimination of Child Labor (IPEC). The priorities for India in 1994-1995 will continue to be in the areas of bonded child labor and hazardous work, including the carpet industry, and the match and fireworks industries.<sup>120</sup> The ILO, through its Child Labor Action and Support Program (CLASP), is concentrating on target groups which mirror the Indian Government's child labor policy. The ILO's programs covered approximately 33,000 children between 1992 and 1993. The total funds committed by the IPEC for 59 action programs in India, up to March 1994, is \$1,532,857.<sup>121</sup> Many of these programs are run by community-based non-governmental organizations which establish special schools for working children. To date, no information on the curriculum, attendance rate, or effectiveness of these schools is available. Many of the schools are open only for a few hours per day so that the children are able to work and attend school.

The Carpet Export Promotion Council (CEPC) has adopted a code of conduct to eradicate the use of child labor in the carpet industry.<sup>122</sup> To enforce this code, the CEPC has begun to register its looms. The registration

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<sup>118</sup> Critics maintain that only a tiny fraction of approved expenditure had therefore actually been taken up to implement the national projects. Fyfe states that by 1992, only 270,000 NFE centers had been established (10 percent run by NGOs). In 1991/92, only 40,000 rupees were sanctioned for the NFE program, yet the Eighth Plan proposes 850,000 rupees (or 4,000-8,000 per center) per year. Instructors under the plan expected to receive 200-600 rupees per month, but only receive 105 rupees per month. Moreover, the NFE centers lacked data and no figures existed for enrollments in NFE Centers. Fyfe at 14.

<sup>119</sup> These sectors are: Match Industry in Sivakasi; Diamond Polishing in Surat; Precious Stone Polishing in Jaipur; Glass Industry in Ferozabad; Brassware Industry in Moradabad; Handmade Carpet Industry in Mirzapur-Bhadohi; Handmade carpets in Jammu & Kashmir; Lock-making in Aligarh; Slate Industry in Mandsaur; and Slate Industry in Markapur.

<sup>120</sup> *International Program on the Elimination of Child labor: Program and Budget for 1994-1995* (Geneva: International Labor Organization, November 19, 1993) 16-17.

<sup>121</sup> *IPEC Reflections on the Past, Pointers to the Future* (Geneva: International Labor Organization, 1994) Appendix II.

<sup>122</sup> "CEPC Code Hopes to End Child Labor," *Hindustan Times* (India), January 9, 1994.

certificate is to be compulsory for membership in the organization which oversees the majority of exports of carpets and floor coverings. The CEPC and the All-India Carpet Manufacturers Association (AICMA) have agreed to send all children employed in the carpet industry to their homes and stop fresh recruitment of workers below 14 years of age.<sup>123</sup> Only carpets made by complying factories will be sold overseas. The CEPC claims to have registered at least 50,000 looms where no children are employed. It warned that it would inspect factories to make sure that the labor code is not violated.<sup>124</sup> At the moment this industry initiative lacks an independent oversight mechanism to insure its accuracy and effectiveness.

The Indian National Trade Union Congress (INTUC) adopted a resolution in May 1993 voicing concern over the increasing employment of child labor. The Conference called upon all INTUC branches to identify child labor in their own regions/branches and explore ways to evolve strategies and an effective Action Plan to mitigate child labor. Other plans for action are unknown.

Out of the countries studied for this report, India has perhaps the largest number of non-governmental organizations concerned with child labor. The South Asian Coalition Against Child Servitude, by far the most well-known, initiated a "Not Made by Children" campaign to effect India's carpet export earnings since carpets are frequently made by children. SACCS also has a program to release, and sometimes rehabilitate, bonded children.<sup>125</sup> There have been several well-publicized raids conducted by SACCS targeting carpet factories. After the children are liberated, Satyarthi and SACCS attempt to provide them with social support, return them to their families, and pressure the local government to respect India's constitutional commitment to free and compulsory education. Throughout the years, SACCS has also organized several marches across India against child servitude. SACCS focuses on all industries which it believes utilize child labor, particularly bonded child labor.

The Indo-German Export Promotion Program (IGEP), in cooperation with the Indian government, NGOs, international organizations such as UNICEF and the ILO, and leading carpet exporters was developing a system called "rugmark" to certify and label carpets made without child labor.<sup>126</sup> The negotiations for this project recently faltered, but the "rugmark" project has reportedly moved forward, on a reduced scale, in cooperation with a number of smaller carpet exporters who belong to an association called the Carpet Manufacturers' Association Without Child Labor.

Some other non-governmental organizations include: The Children's Emancipation Society, which has set up schools near the looms so that children can study in the morning and weave in the afternoons; The Campaign Against Child Labor, Youth for Voluntary Action (YUVA) in Bombay; Action for the Rights of the Child (ARC) in Pune; and Terre des Hommes (Germany) India Programme, and a public awareness campaign with the support of approximately 300 non-governmental organizations, the ILO, and UNICEF.

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<sup>123</sup> "Indian Carpet Units Not to Employ Child Laborers," *The Xinhua News Agency*, August 12, 1992.

<sup>124</sup> "India's Export Promoters Adopt Child Labor Code," *Associated Press*, January 7, 1994.

<sup>125</sup> Child workers rescued by SACCS are lodged in "Mukti Ashram" outside Delhi, where they are given an education and taught a trade. Timothy Ryan, "Profile: Kailash Satyarthi, Indian crusader Seeks to halt child slavery," *Far Eastern Economic Review*, 62 (July 8, 1993).

<sup>126</sup> American Embassy-New Delhi unclassified telegram no. 21518, November 19, 1993.



## I. OVERVIEW

Many children work in Indonesia. According to the 1990 Population Census of Indonesia, 2.2 million children between the ages of 10 to 14 years, representing about three percent of the total labor force, were economically active.<sup>1</sup> This figure does not include child workers below 10 years of age and children involved in domestic work. In July 1993, Coordinating Minister for People's Welfare, Azwar Anas, said that 2.24 million children are working in rural areas and a quarter-million children in urban areas.<sup>2</sup> The most recent report of the United Nations Commission on Human Rights (1994) reported that there are 2.7 million working children aged 10 to 14.<sup>3</sup>

There is little hard data on the extent of child labor in export industries. Child labor is found in the garment and the wood and rattan furniture industries. There are credible allegations of children working in other industries, including food processing, chocolate, shrimp and seafood processing, and the export-oriented pumice stone industry, but the extent of child labor in these industries and their direct link to export is not documented and thus more research is needed.

## II. CHILD LABOR IN EXPORT INDUSTRIES

The Indonesian Documentation and Information Center (INDOC), a non-governmental organization in the Netherlands which focuses on Indonesia, alleges that export industries employ children under 14 years of age at various stages of the manufacturing process.<sup>4</sup> Many foreign companies use cheap labor, including children, to manufacture semi-finished products for European and North American markets. In its 1994 report, INDOC concluded that factories producing goods for export to the United States generally are under tight surveillance of company guards who are backed by the police force and, therefore, it is difficult to obtain information on child labor.<sup>5</sup>

Child workers are found in the export factories of Tangerang. According to a 1991 study by the Committee for the Creative Education of Indonesian Children (KOMPAK),<sup>6</sup> the factories in Tangerang, were paying meager

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<sup>1</sup> *Situation Analysis on Women and Children in Indonesia* (New York: UNICEF, 1993) 252. See also "Government to regulate child labor despite strong protests," *Jakarta Post*, September 11, 1993.

<sup>2</sup> "2.5M Indonesian kids forced into labor," *United Press International*, July 30, 1993.

<sup>3</sup> Vitit Muntarbhorn, "The Rights of the Child," U.N. Doc. E/CN.4/1994/84, 20 (1994). This figure tracks with the International Labor Organization's 1992 approximation. "ILO's 1992 Report Condemns Child Labor," *International Children's Rights Monitor*, vol. 9, nos. 3-4 (1992).

<sup>4</sup> Letter from Hans Goderbauer of the Indonesian Documentation Center to the International Child Labor Study (March 28, 1994).

<sup>5</sup> *International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994) (Statement of Indonesian Documentation Center/INDOC) [hereinafter Testimony of INDOC].

<sup>6</sup> KOMPAK stands for "Komite Pendidikan Anak-anak Kreatip Indonesia." "Factory Children in Indonesia," in *Child Workers in Asia*, vol. 9, no. 2 (April-June 1993).

wages to children for long hours of work under unsafe conditions. Children worked for 8,000 Indonesian rupiahs (approximately \$4.53) per week for an 8-hour daily shifts, and worked an average of 7 to 13 hours per day seven days per week.<sup>7</sup> KOMPAK reported that over 70 percent of the children have become sick from the long working hours and little rest.<sup>8</sup> In many cases, the children are docked 3,000 Indonesian rupiahs (approximately \$1.70) for each day absent from work. Most of the children have attended school only up to the third grade and some never at all.

The Kepodang Foundation, another non-governmental organization, interviewed child workers and found that the three major complaints were tiring work, "fearful" working conditions due to the "vicious" attitude of the supervisor, and hot temperatures due to lack of ventilation in the factory.<sup>9</sup> The 1990 Population Census found that about one third of the economically active children worked more than 35 hours per week, with almost six percent working 60 hours or more per week.<sup>10</sup>

With regard to export industries, substantiated research finds child labor in the rattan and wood furniture and garment industries.

## WOOD AND RATTAN FURNITURE

The United States imports significant amounts of rattan and wood furniture from Indonesia. Based upon his April 1994 visit to Indonesia, Jeff Ballinger reports that, "the production of rattan furniture almost certainly involves child labor".<sup>11</sup> The use of children in the export-oriented rattan industry is also confirmed by the Indonesian Documentation and Information Center in the Netherlands.<sup>12</sup> Other furniture made for export also involves children.<sup>13</sup> In Jepara (Central Java), Victorian reproductions are made and overseen by Australian and English dealers. Much of the carving is allegedly done by 12 and 13 year old boys.

A draft report by White and Tjandraningsih further documents child labor in the rapidly growing export-oriented rattan furniture industry.<sup>14</sup> The authors researched the rattan furniture industry in Tegalwani, Cirebon, which includes all sizes of production units, including households. According to White and Tjandraningsih, the rattan industry relies heavily on child and juvenile labor, who work as paid helpers in a family enterprise, seek

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<sup>7</sup> *Id.* at 16.

<sup>8</sup> *Id.* at 16.

<sup>9</sup> *International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994) (Statement of the Kepodang Foundation, Indonesia).

<sup>10</sup> *Situation Analysis of Women and Children in Indonesia* (New York: UNICEF, 1993) 254-255.

<sup>11</sup> Jeff Ballinger, *Goods Produced for Export to the United States Using Child Labor in Indonesia* (May 1, 1994) 7 [on file] [hereinafter Ballinger].

<sup>12</sup> Testimony of INDOC. Interviews by a U.S. Department of Labor official with officials from the Indonesian Ministry of Manpower in May 1994 also brought an acknowledgment that child labor likely existed in the rattan industry.

<sup>13</sup> Ballinger at 7.

<sup>14</sup> Benjamin White and Indrasari Tjandraningsih, *Rural Children in the Industrialization Process: Child and Youth Labor in "Traditional" and "Modern" Industries in West Java* [2nd DRAFT] 19-20 [unpublished manuscript on file, n.d.] [hereinafter White and Tjandraningsih].

apprenticeships, or become wage-workers in the larger production unit. Children begin work at the age of nine or ten, and enter full-time wage labor after leaving primary school at the age of 12 or 13.<sup>15</sup> Most children work full-time, seven hours per day, and six days a week. Children are usually provided with meals by their employers in the rattan industry.<sup>16</sup> In general, children are paid 6,000 to 9,000 Indonesian rupiahs (approximately \$3.40-\$5.10) per week.<sup>17</sup> Apprenticeships, however, are a widespread source of cheap labor in the rattan industry, even though they are found to do most of the same kinds of work as their adult employers.<sup>18</sup>

Children are reported to suffer various ailments from their work in the furniture industry,<sup>19</sup> including fevers, coughs, and influenza.<sup>20</sup>

## **GARMENTS AND EMBROIDERY**

The United States imported approximately \$978 million worth of apparel from Indonesia in 1993.<sup>21</sup> There are reports of children working in the Indonesian garment and textile industry. During his visit to Indonesia, Jeff Ballinger visited a drop-in center for children and interviewed 14 and 15 year-old children who worked for a garment factory. Children from the Tangerang region reported working 48 hours a week and receiving less than minimum wage.

In addition to the garment industry, it is quite common to find children, some as young as eight years old, working in the embroidery industry. They may also work in the batik industry in Bali. White and Tjandraningsih studied two villages in the Tasikmalaya district where they found almost every household engaged in embroidery.<sup>22</sup> The embroidery work is done on a subcontracted basis (filling orders) or by "putting-out" workers, who work on a piece rate basis for other households which receive orders. Children commonly work on winding cotton into reels; burning holes in the cloth after embroidery with soldering irons; and folding and packing the finished work.

## **OTHER EXPORT INDUSTRIES**

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<sup>15</sup> *Id.* at 20.

<sup>16</sup> *Id.* at 23.

<sup>17</sup> *Id.* at 24.

<sup>18</sup> *Id.* at 24-25.

<sup>19</sup> "The World of Working Children 1987-1993," *Child Workers in Asia* (1993) 20-21.

<sup>20</sup> *Id.*

<sup>21</sup> U.S. Department of Commerce, International Trade Administration, Office of Textiles and Apparel, *Major Shippers: Textiles and Apparel* (June 11, 1994).

<sup>22</sup> White and Tjandraningsih at 18-19.

There are also some credible allegations of child labor in Indonesia's food, candy,<sup>23</sup> beverage, mosquito repellent,<sup>24</sup> plastic, electric light bulb,<sup>25</sup> metal, cigarettes, footwear,<sup>26</sup> gem mining (in Kalimantan), and commercial fishing (shrimp and other seafood) enterprises.<sup>27</sup> These industries are not included for extensive discussion in this report as more research needs to be conducted to determine the extent of child labor and whether these goods are exported to the United States.

There is also extensive export of pumice stones from Indonesia to many countries, including Hong Kong and Thailand.<sup>28</sup> There are credible allegations that children are searching for pumice stones, which are used in cosmetics, for bullet proof glass, sound proof equipment, in cleaners, and in the manufacture of blue jeans.<sup>29</sup> At this time, there is no direct export of pumice stones from Indonesia to the United States.

### III. LAWS OF INDONESIA

#### A. NATIONAL CHILD LABOR LAWS

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<sup>23</sup> For example, a review of current literature shows that 12 to 15 year old children are working in chocolate, cracker and biscuit factories for mostly domestic consumption. *See generally* Ballinger. Ballinger interviewed several children working in the chocolate factories. *See also* White and Tjandraningsih at 17. White and Tjandraningsih document girls working in milk-based candy and caramel industries in Pangalengan. Children, ranging in age from 7-18, weigh, wrap, seal and bag candy.

<sup>24</sup> A 1991 survey by an Indonesian non-governmental organization, KOMPAK, found hundreds of children working in a mosquito repellent company filling tubes with toxic liquids for export to a European country. "Factory Children in Indonesia," *Child Workers in Asia*, vol. 9, no. 2 (April-June 1993) 16. According to the 1994 *Journal of Commerce Piers Imports* database 1994, the United States does import mosquito coils and repellents from Indonesia. More research is necessary in this industry.

<sup>25</sup> An article in 1992 in the *Calgary Herald* (Canada) cited the ILO and reported that children were working in electric light bulb factories for \$3 per week. David Todd, "From the Cradle to the Factory: Children Toil Like Slaves for Paltry Pay," *Calgary Herald*, July 5, 1992, B1.

<sup>26</sup> There are numerous accounts of 12 to 14 year old children working in shoe-making in Cidabayut, near Bandung. The shoes made by children are allegedly for domestic consumption only. Ballinger at 10. Child "apprentices" from 7 to 11 years old work in the shoe industries of Ciomas (Bogor district) and Cibaduyat (Bandung district) producing sports, leather, and rubber shoes, mainly for domestic use. White and Tjandraningsih at 20 and 24.

<sup>27</sup> Child labor is used in commercial fishing on off-sea platforms in Sumatra, where young boys are virtual prisoners for months earning less than \$1 a day. "Government Taking Concrete Action Against Child Labor," *Business Times*, August 27, 1993, 6-7.

<sup>28</sup> Her Suharyanto, "Pumice: Pebbles with a Price," *Indonesia Business Weekly*, vol. 1, no. 29 (July 2, 1993) 30.

<sup>29</sup> Meeting between Jeff Ballinger and International Child Labor Study staff at the U.S. Department of Labor (February 15, 1994).

The basic minimum age law in Indonesia is Act No. 1 of 1951, which was passed but never implemented. It would set the minimum working age at 14 years. However, draft implementing regulations are still under consideration and the actual legal working age remains 12 years, as enacted under a Dutch Colonial Government Ordinance of 1925 on Measures Limiting Child Labor and Night Work of Women.

Meanwhile, the Ministry of Manpower Regulation, No. PER-01/MEN/1987 legalizes the employment of children under the age of 14 who must work to contribute to the income of their families. It requires parental consent, prohibits dangerous or difficult work, limits work to four hours daily, and requires employers to report the number of children working.<sup>30</sup> This regulation does not set a minimum age for the employment of children.

Enforcement of any restrictions on child labor is weak. According to the U.S. State Department's *Country Reports on Human Rights Practices for 1993*, in September 1993, the Government of Indonesia announced it would review its child labor regulations with a view towards tightening enforcement of restrictions on child labor. At the end of 1993, the review was not complete and no changes in practices have since been implemented.<sup>31</sup> In its report entitled "Situation Analysis on Women and Children," UNICEF confirms that Indonesia's child labor laws are inadequately enforced, and calls for a review of national enforcement procedures. To date, no employer has been brought to court for violating existing child labor regulations and no reports have been collected from establishments employing children.<sup>32</sup> Employer sanctions are also very slight with a maximum fine of only Indonesian rupiahs 100,000 (about US \$56) or 3 months imprisonment.<sup>33</sup> According to the Ministry of Manpower, there is no data on child labor enforcement and no prosecutions.<sup>34</sup>

There is also a shortage of labor inspectors in Indonesia. Consequently, employers do not have to worry about frequent visits.<sup>35</sup> According to a *Child Workers in Asia* article in 1993, there have been reports that when inspectors from the Ministry of Manpower visit the factories, children are ordered not to show up.<sup>36</sup> Jeff Ballinger estimates there are approximately 1,320 labor Inspectors.<sup>37</sup> According to the ILO, only between 700 and 800 of the inspectors are operational, the rest being clerical and support staff.<sup>38</sup> UNICEF estimates that, with an average of one labor inspector per 3,895 companies, child labor remains a low priority for the Labor

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<sup>30</sup> *Country Reports on Human Rights Practices for 1993* (U.S. Department of State, February, 1994) 652.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> Testimony of INDOC.

<sup>34</sup> Interview with the Ministry of Manpower by Department of Labor official (May 1994).

<sup>35</sup> *Id.*

<sup>36</sup> "Child Abuse Rampant," *Child Workers in Asia*, vol. 9, no. 3, July-Sept, 1993, 26.

<sup>37</sup> Ballinger at 2.

<sup>38</sup> See American Embassy-Jakarta, unclassified telegram no. 7417, August 11, 1994 [hereinafter Jakarta 7417].

Inspectorate.<sup>39</sup> Moreover, children often have "legal" identification cards issued by the Ministry of Interior, falsifying their age, which makes enforcement of child labor laws difficult.<sup>40</sup>

## *B. EDUCATION LAWS*

According to the International Labor Organization, compulsory education is required up to age 13.<sup>41</sup> The government of Indonesia is planning to expand universal education from six grades to nine grades.<sup>42</sup>

Although the government has a "compulsory education" program, it is not truly "compulsory" as there is no penalty for parents who do not enroll their children.<sup>43</sup> UNICEF estimates that more than one million children drop out of primary school every year, primarily because the cost of supplies, uniforms, and other expenses are a burden for disadvantaged families, but also because of a professed need to supplement family income.<sup>44</sup>

## *C. INTERNATIONAL CONVENTIONS*

Indonesia is a party to the U.N. Convention on the Rights of the Child. It has not ratified ILO Conventions No. 59 Concerning Minimum Age for Admission to Employment in Industry or No. 138 Concerning Minimum Age for Employment.<sup>45</sup>

## **IV. PROGRAMS AND EFFORTS TO ADDRESS CHILD LABOR**

Under the current five-year development plan which began April 1, 1994, the Government of Indonesia vows to eradicate employment of children under 14 years.<sup>46</sup> In April 1992, the Government of Indonesia signed a

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<sup>39</sup> *Situation Analysis of Women and Children in Indonesia* (New York: UNICEF, 1993) 252.

<sup>40</sup> Interview with Ministry of Manpower by Department of Labor official (May, 1994).

<sup>41</sup> *Conditions of Work Digest: Child Labor Law and Practice*, vol. 10, no. 1 (Geneva: International Labor Organization, 1991).

<sup>42</sup> See Ballinger's summary review of ILO/IPEC draft report. This is also confirmed by an official U.S. Department of Labor visit to Indonesia in May 1994.

<sup>43</sup> Interview with the Indonesia office of IPEC by U.S. Department of Labor official (May 1994).

<sup>44</sup> *Situation Analysis of Women and Children in Indonesia* (New York: UNICEF 1993) 251.

<sup>45</sup> *Lists of Ratifications by Convention and Country (as at December 1992)* (Geneva: International Labor Organization, 1993).

<sup>46</sup> "Worker Rights Proposal Seen as Trade Maneuver," [AFP source not known], April 3 1994 [on file].

Memorandum Of Understanding with the International Labor Organization under the International Program for the Elimination of Child Labor (IPEC). According to the ILO, the total funds allocated for 23 Action Programs in Indonesia under IPEC is \$1,269,110.<sup>47</sup> For example, a child labor survey in West Java has been completed, and 120 of the Department of Manpower's child labor inspectors have received ILO effectiveness training in five provinces of Java and one province in North Sumatra; twenty of these inspectors have received advanced training, with forty more scheduled for it later this year.<sup>48</sup> In addition, plans are being developed for the elimination of child labor, "beginning with the children most at risk, and the protection meanwhile of working children."<sup>49</sup>

UNICEF reports that during the 1990-1995 program period, its Country Program for Indonesia does not have a Children in Especially Difficult Circumstances (CEDC) component. A new country program for Indonesia for 1995 to 2000 is being prepared.<sup>50</sup>

There are only a few non-governmental organizations in Indonesia working on child labor. One non-governmental organization, "Education Committee for Indonesian Creative Child Workers" (KOMPAK), has protected child workers in factories, especially girls aged 11 to 17 who work in the industrial area of Tangerang, West Java. KOMPAK educates children on their rights, the labor laws and relevant governmental regulations. Another non-governmental organization working on these issues is the Foundation for Independent Children (Bandung, West Java), which was planning a program for child workers in the shoe factories in southern Bandung. The only legal trade union organization, the quasi-governmental All-Indonesia Workers Union (SPSI), is operating a program for child laborers in the Bekasi region, and a non-governmental organization, Yayasan Pondokan Rakyat Kreatif (YPRK), has a program in Medan. There are some other programs for working children concentrated in Java and Bali.

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<sup>47</sup> *IPEC: Reflections on the Past, Pointers to the Future* (Geneva: International Labor Organization, 1994) Annex II.

<sup>48</sup> Jakarta 7417.

<sup>49</sup> "Worker Rights Proposal Seen as Trade Maneuver," [AFP source not known], April 3 1994 [on file].

<sup>50</sup> Letter from UNICEF-Asia Section to the International Child Labor Study (June 27, 1994).

## I. OVERVIEW

Between 5 and 15 percent of the workforce in several of Lesotho's garment factories that export to the United States are children aged 12 to 15. It has also been reported that children contribute, through home-based production, to the manufacturing of shoes for export and work in canning plants for asparagus grown in South Africa.<sup>1</sup>

## II. CHILD LABOR IN EXPORT INDUSTRIES

Lesotho's manufacturing sector, including textiles, garments, milling, canning, leather, jute and handicrafts has expanded rapidly in recent years.<sup>2</sup> As this sector has expanded, drought, urbanization, unemployment, and a weak educational system have, in recent years, caused many children to seek employment in these expanding industries. Child labor has been found in the garment and shoe industries and there are unsubstantiated reports of children working in asparagus canning plants.<sup>3</sup>

### GARMENTS

Since 1989, exports of Lesotho-made apparel and clothing accessories have risen significantly. In 1992 articles of apparel and clothing accessories accounted for over 90 percent of the \$53 million of goods imported by United States from Lesotho.<sup>4</sup> Approximately 14,000 workers are employed in the Lesotho's garment industry.<sup>5</sup>

A U.S. Department of Labor official visiting Lesotho confirmed reports that children work in Lesotho's export-oriented garment industry. Children under the age of 14 work in at least ten different foreign owned factories that assemble garments from imported material and export to the United States. Each factory employs between 500 to 1500 workers and approximately five to fifteen percent of the primarily female work force in these garment factories are below the legal age of 16, including many aged 12 to 14.<sup>6</sup>

The children in the garment factories work under the same conditions as adults. They cut, sew, iron, pack, and load the garments. A Department of Labor official observed that the largest number of children were engaged in sewing. Children, as well as adults, are paid the minimum wage, or a slightly higher rate, with a monthly

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<sup>1</sup> Interview with Sarah Christie, University of Cape Town, South Africa, by U.S. Department of Labor official (June 9, 1994) [hereinafter Interview with Christie].

<sup>2</sup> *The World Fact Book 1993* (U.S. Central Intelligence Agency, 1994) 224.

<sup>3</sup> Interview with Christie.

<sup>4</sup> *U.S. Merchandise Trade: Exports and General Imports by Country* (Washington, D.C.: U.S. Department of Commerce, 1993) A-251.

<sup>5</sup> Interview with Karl Hofman, Chargé d'Affairs of American Embassy-Maseru, by Department of Labor official (June 8, 1994).

<sup>6</sup> Interview with Hofnie Lebone, Lesotho Amalgamated Clothing and Textile Workers Union, by U.S. Department of Labor official (June 7, 1994). *Note:* A U.S. Department of Labor official observed child labor in two Taiwanese owned factories.



salary of 265R-300R (approximately \$75 per month). As punishment for talking during working hours, some of these factories will deduct from a worker's pay. The workers are entitled to 12 days of paid leave per year. Some factories reportedly make children work late and sleep in the factories. Allegedly, they are fed only bread and a cup of tea.<sup>7</sup> Normal work hours are 7 a.m. to 4 p.m. with an hour break for lunch. A Department of Labor official found during a visit to one factory that the building's doors are locked during work hours.

## SHOE INDUSTRY

The shoe industry in Lesotho utilizes home-based production. Workers bring materials home so that the entire family can contribute to the manufacturing process. Children as young as six manufacture shoe parts for up to eight hours per day.<sup>8</sup> In one German owned shoe factory, "uppers" of moccasins made by home-based subcontractors are attached to the soles in the factory.<sup>9</sup> There is no evidence, however, that shoes made in this manner are exported to the United States.

## III. LAWS OF LESOTHO

### A. NATIONAL CHILD LABOR LAWS

The Employment Amendment Act of 1977 establishes 15 as the minimum age for work in mining, industry, and commercial undertakings under.<sup>10</sup> Exceptions include a minimum age of 12 for family-based enterprises, self-employment, domestic service and work in technical schools.<sup>11</sup> In addition, children under the age of 16 may not work for more than four consecutive hours without a break or for more than eight hours per day.<sup>12</sup> The minimum age for dangerous work is established as 16.<sup>13</sup>

Thirteen labor officers in 10 districts are responsible for enforcing Lesotho's labor laws. Four operate in Maseru. Labor officers do not specifically monitor the age of workers and allegedly they are under pressure from other government agencies to limit their inspections of textile factories. With a total budget of less than \$600,000, the Ministry of Labor lacks the funds required to train and operate an effective labor inspectorate.<sup>14</sup>

### B. EDUCATION LAWS

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *The Situation of Women and Children in Lesotho 1991* (Lesotho Ministry of Planning, Economic and Manpower Development and UNICEF, March 1991) 127.

<sup>11</sup> *Conditions of Work Digest, Volume 10* (Geneva: International Labor Organization, 1991) 31, 131 [hereinafter *Conditions of Work Digest*].

<sup>12</sup> Interview with Mr. Letobane, Deputy Labor Commissioner, by U.S. Department of Labor official (June 8, 1994) [hereinafter Interview with Deputy Labor Commissioner].

<sup>13</sup> *Conditions of Work Digest* at 131.

<sup>14</sup> Interview with Deputy Labor Commissioner.

Under law, education in Lesotho is compulsory until the age of 13.<sup>15</sup> However, the law is not enforced. Given the low level of income, fees for school, uniforms, books, and, for some, transportation, are a heavy burden and a significant disincentive for many children to complete primary school.

### *C. INTERNATIONAL CONVENTIONS*

Lesotho has ratified ILO Convention No. 5 Concerning the Minimum Age for Admission to Employment in Industry, but not ILO Convention No. 138 Concerning the Minimum Age for Admission to Employment.<sup>16</sup> The Government of Lesotho is party to the United Nations Convention on the Rights of the Child.<sup>17</sup>

The ILO Committee of Experts on the Application of Conventions and Recommendations states in its 1994 report that:

*The Committee notes from the Government [of Lesotho's] report that the Inspectorate Division of the Labor Department is reluctant to implement the existing provisions of the law relating to minimum age. According to the report, barring persons under the minimum age from employment would deprive them, and often their families, of a livelihood.*<sup>18</sup>

## **IV. PROGRAMS AND EFFORTS TO ADDRESS CHILD LABOR**

The Government of Lesotho has done very little to address the problem of child labor. The Lesotho Amalgamated Clothing and Textile Workers Union appears to be the only organization that has investigated the existence and conditions of child labor in the garment industry. There is a clear need for governmental and non-governmental efforts to address child labor in Lesotho.

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<sup>15</sup> *Conditions of Work Digest* at 31.

<sup>16</sup> *List of Ratifications by Convention and Country (as at 31 December 1992)* (Geneva: International Labor Organization, 1993).

<sup>17</sup> *Country Reports on Human Rights Practices for 1993* (U.S. Department of State, February, 1994) 1403.

<sup>18</sup> *Report of the Committee of Experts on the Application of Conventions and Recommendation*, Report III (Part 4a) (Geneva: International Labor Organization, 1994) 61-62.

## I. OVERVIEW

There are an estimated 8 to 11 million children under the age of 15 working in Mexico.<sup>1</sup> A relatively small number of children under the age of 14 are reportedly employed in the export-oriented maquiladoras, or assembly factories, in the border region between Mexico and the United States.

## II. CHILD LABOR IN EXPORT INDUSTRIES

### MAQUILADORAS

Most of the manufactured products imported by the United States from Mexico are produced in maquiladoras (or "maquilas"). The vast majority of maquilas are affiliates of American-owned companies that assemble goods for export, including transportation equipment, electrical and electronic products, toys and sporting goods, textiles and furniture. The maquiladoras are primarily situated in the Mexico-United States border region.<sup>2</sup>

The disparity in income and living conditions between the poor South and the developing North has drawn people away from the South to resettle and seek jobs in the border region. In a 1994 report on child labor in Mexico, children's rights expert Kenneth Klothen states:

*... (T)hese factors have the effect of bringing large numbers of young people and families to areas where they do not have the benefit of traditional extended family and other communal structures to provide assistance to the family economy, and where educational services, day care and other social benefits are lacking. These effects tend to promote the entry of children into the work force.*<sup>3</sup>

As a result of these economic pressures many children work long hours under hazardous conditions.<sup>4</sup>

The maquiladora work force is primarily composed of young female production workers.<sup>5</sup> There is only limited evidence of the existence of child labor in maquilas currently producing goods for export although there have been past reports of child labor. The investigators for a 1993 Defense for Children International report interviewed many maquila workers aged thirteen to fifteen, as well as adult workers, who reported that it was

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<sup>1</sup> Estimates of the number of children under 15 years of age working vary considerably from 8 million, or 25.8%, as given by UNICEF, to 11 million, or 34.4%, as given by the Mexican Statistics Institute (INEGI). *Country Reports on Human Rights Practices for 1993* (U.S. Department of State, February, 1994) 502 [hereinafter *Country Reports*].

<sup>2</sup> Kenneth L. Klothen, *Child Labor in the Export Manufacturing Sectors of Central America and Mexico* (May 1994) 18 [on file] [hereinafter Klothen].

<sup>3</sup> *Id.* at 18.

<sup>4</sup> *Out of the Equation: Children and North American Economic Integration* (Defense for Children International (DCI), 1993) 4 [hereinafter DCI Report].

<sup>5</sup> *Foreign Labor Trends: Worker Rights in Export Processing Zones (1989-1990)* (U.S. Department of Labor, August 1990) 16.

relatively easy for underage workers to gain employment in a maquila. At least 75 percent of those interviewed knew of underage children working in the factories with the only exception being those factories located in and around Matamoros.<sup>6</sup> Klothen reports that although the trend is to hire fewer underage workers, "serious problems remain with the employment of early teens (often under the legal minimum of fourteen)."<sup>7</sup>

The underage maquila workers are generally girls just below the minimum age. Investigators found that many start working at age 12 or 13. The children are able to either lie about their age or provide false birth certificates or other documents in order to obtain their positions.<sup>8</sup> Young workers may be subject to harsh conditions in maquilas including overtime, night shifts, and exposure to hazardous materials.<sup>9</sup>

Although most of the investigation of children working in maquilas is from 1991 and 1993, it is probable that children under the age of 14 continue to be employed in the maquilas. More thorough documentation is needed to determine the extent of child labor and the specific products that are being manufactured with the use of child labor in the maquiladoras.

## **HANDICRAFTS**

Child labor is found in workshops producing a variety of handicraft and folk artesanry items.<sup>10</sup> A 1992 Mexican Government report stated that 10.8% of economically active 12 to 15 year olds work in palm leaf and wood craft shops.<sup>11</sup> Some of these items may be exported to the United States.

## **OTHER EXPORT INDUSTRIES**

Klothen asserts that child labor apparently does not exist in processing plants for agricultural products, but that children are employed on farms under contract to the export-oriented processing firms. Klothen discovered in an interview with the plant manager of a large American canning firm that their contracts bind their growers to comply with applicable Mexican laws, but this firm makes no attempt to police labor conditions as they see this as the role of the labor inspectorate. The manager acknowledged that the growers who supplied the plant used child labor in the fields.<sup>12</sup>

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<sup>6</sup> DCI Report at 6.

<sup>7</sup> Klothen at 21.

<sup>8</sup> DCI Report at 5. *See also* John M. McClintock, "Free-trade pact raises concerns about exploitation of Mexico's child workers," *Baltimore Sun*, December 15, 1991.

<sup>9</sup> The 1993 DCI study found that some young workers were using lead solder in their work. *Cited in* Klothen at 22.

<sup>10</sup> American Embassy-Mexico City unclassified telegram no. 30300, December 23, 1993.

<sup>11</sup> *Child Labor in Mexico* (First Version, Mexican Secretariat of Labor and Social Welfare, January, 1992) 39 [hereinafter *Child Labor in Mexico*]; A U.S. Embassy official in Mexico stated, in a telephone interview with a Department of Labor official (July 9, 1994), that he had observed children painting ceramic animals in Oaxaca.

<sup>12</sup> Klothen at 24.

Several journalists and human rights workers have reported the existence of child labor in the shoe and garment industries. One journalist found children as young as ten working eight hour days in small factories in the central Mexican state of Guanajuato. These children were exposed to hazardous conditions including constant contact with the toxic glue used to attach the soles of shoes.<sup>13</sup> A Defense for Children International investigation of child labor in the manufacture of athletic and casual shoes in Leon, Guanajuato State concluded that this industry is "positively rife with the extreme exploitation of child labor."<sup>14</sup> The report noted:

*Children as young as pre-teens worked with materials labelled hazardous without benefit of protective clothing or adequate ventilation . . . These sweatshops were not then exporting much to the United States, although at least one had filled a contract for athletic shoes for a Texas school district. However, they were anxious to take advantage of their low cost production to enter the U.S. market, and were eagerly awaiting passage of the NAFTA agreement to assess opportunities for doing so.*<sup>15</sup>

Child labor has also been found in garment factories concentrated in the state of Aguas Calientes that produce almost exclusively for the domestic market.<sup>16</sup> A 1988 Mexican Government report found that 54,000 children between the ages of 12 and 15 worked in textile manufacturing.<sup>17</sup>

### III. LAWS OF MEXICO

#### A. NATIONAL CHILD LABOR LAWS

The Mexican Constitution establishes 14 as the basic minimum age for work.<sup>18</sup> The Federal Labor Law (LFT), which is incorporated into the Constitution, includes special provisions concerning the work of children between the ages of 14 and 16. Among these various provisions, minors in this age group are prevented from work that is "dangerous or unhealthy," underground or underwater, itinerant, or which "may affect their morals or good behavior."<sup>19</sup> In addition, they may not work after 10:00 p.m. in an industrial plant, work for more than six hours per day, or work for more than three hours without a one hour break.<sup>20</sup> In order to work, children under eighteen are required to have permission from a legal guardian or parent, have regular medical examinations, and their employers must post a list of dangerous tasks not to be performed by minors.<sup>21</sup>

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<sup>13</sup> Telephone interview with Matthew Moffett, reporter for *The Wall Street Journal*, by Department of Labor official (April 7, 1994) [hereinafter Interview with Moffett].

<sup>14</sup> *International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994) (Statement of Defense for Children International-USA).

<sup>15</sup> *Id.* at 4.

<sup>16</sup> Interview with Moffett.

<sup>17</sup> *Child Labor in Mexico* at 40.

<sup>18</sup> The Federal Labor Law (Ley Federal de Trabajo), Article 23 (a) [hereinafter LFT].

<sup>19</sup> LFT, Article 175.

<sup>20</sup> LFT, Article 177.

<sup>21</sup> LFT, Articles 23, 174, and 423.

There have been numerous complaints of lax enforcement of Mexico's labor laws. Enforcement of federal labor laws falls under the jurisdiction of state governments, except for certain specified industries including textiles, chemicals, automobiles, metals, and others, whose enforcement falls under the jurisdiction of federal authorities. This system has been criticized by some for its inefficiency.<sup>22</sup> The weakness of the enforcement system is also apparent in the small number of cases concerning violations of child labor laws that are appealed to the courts. This can be explained in part by the fact that the fines are small and considered by business owners as a cost of doing business.<sup>23</sup>

Under the North American Free Trade Agreement, the General Directorate of Inspection of the Labor Ministry will take over the enforcement of labor laws in the border region. With the help of a proposed large appropriation from the Mexican Treasury Department, the hiring of more inspectors and the operation of more labor officers in border cities is likely.<sup>24</sup> Higher fines are also proposed.

## *B. EDUCATION LAWS*

Education is compulsory in Mexico for both primary and secondary school and parents are legally liable for ensuring their children's attendance.<sup>25</sup> Schooling is available to almost all who seek it, but approximately 45 percent of those enrolling in primary school drop out before completion of the mandatory basic elementary and intermediate education.<sup>26</sup>

## *C. INTERNATIONAL CONVENTIONS*

Mexico is party to the UN Convention on the Rights of the Child.<sup>27</sup> The Government of Mexico has not ratified ILO Convention No. 138 Concerning Minimum Age for Admission to Employment or ILO Convention No. 59 Concerning the Minimum Age for Admission to Employment in Industry.<sup>28</sup>

# **IV. PROGRAMS AND EFFORTS TO ADDRESS CHILD LABOR**

The Mexican Government recognizes the need to address the problem of child labor and has taken steps in that direction. In 1993, the International Labor Organization worked with the Mexican Government's Social Development Secretariat to develop a national action program for the eradication of child labor, with the financial assistance of UNICEF. The preliminary project resulting from this collaboration has not yet been

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<sup>22</sup> Klothen at 20.

<sup>23</sup> Klothen at 23. Taken from interview with Lic. Alfonso Niebla y Castro, Director General of Inspection, Mexican Ministry of Labor.

<sup>24</sup> *Id.* at 22.

<sup>25</sup> *Country Reports* at 502.

<sup>26</sup> *Regional Tri-partisan Latin American Seminar on the Abolition of Child Labor and Protection of Working Children* (ILO and Ministry of Labor and Human Resources of Ecuador, 1991) 17.

<sup>27</sup> *Country Reports* at 1403.

<sup>28</sup> *List of Ratifications by Convention and by Country (as at 31 December 1992)*, (Geneva: International Labor Organization, 1993).

approved.<sup>29</sup> Other initiatives have been taken by the government to address the needs of children working in the informal sector. These are concerned with informing children and their parents of the rewards of education and providing them with various educational opportunities. The effect of these programs can not yet be determined.<sup>30</sup>

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<sup>29</sup> *Id.* at 502. A Department of Labor telephone interview on July 9, 1994 with the American Embassy Labor Counselor in Mexico City confirmed that the national action program has not yet been approved and will most likely not be considered again until after the Presidential elections in August 1994.

<sup>30</sup> Klothen at 23.

## I. OVERVIEW

Child labor is commonly found in Morocco's hand-made carpet industry which exports to the United States. Small garment factories, which are alleged to be occasionally subcontracted by large export-oriented factories, also employ child labor. The leather tanning and manufacturing industry uses child labor but further investigation is needed to determine if any of these products made with child labor are exported to the United States.

## II. CHILD LABOR IN EXPORT INDUSTRIES

A 1994 report by Moroccan sociologist Soumaya Naamane Guessous found that, except for hand-made carpets, "almost all Moroccan products exported to the U.S. are made exclusively by individuals over the age of 14."<sup>1</sup> Interviews by a U.S. Department of Labor (DOL) official, however, found that export-oriented garment factories occasionally subcontract work to small enterprises which often employ children. In addition, small leather tanning and manufacturing workshops use child labor, but further investigation is needed to determine if the small amount raw hides and leather products exported to the United States from Morocco are produced in these workshops.<sup>2</sup>

### HAND-KNOTTED CARPETS

Although child labor in Morocco's carpet industry has decreased since the 1970s,<sup>3</sup> it still exists. L'Union Marocaine du Travail (UMT) estimates that 5,000 to 10,000 children between the ages of 8 and 14 work in the artisan carpet industry and between 2,000 and 3,000 work in the export-oriented carpet industry.<sup>4</sup>

In 1993, the United States imported over \$250,000 worth of hand-made carpets from Morocco.<sup>5</sup> The UMT reports that the United States imports approximately four to five percent of total carpets exported from

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<sup>1</sup> Soumaya Naamane Guessous, *The Use of Child Labor in Morocco in the Production of Goods Exported to the United States* (Casablanca, May 1994) 26 [on file] [hereinafter Guessous].

<sup>2</sup> Interview with L'Union Marocaine du Travail (UMT) by U.S. Department of Labor official (May 24, 1994); Interview with garment industry expert by U.S. Department of Labor official (May 24, 1994) [hereinafter interview with garment industry expert].

<sup>3</sup> In a 1977 report, the Anti-Slavery Society found that in 67 private premises and 17 state centers the employment of girls under the age of 12 was widespread. The girls worked hours far in excess of the legal limit and were rarely paid the minimal salary due to them. *Child Labor in Morocco's Carpet Industry* (London: Anti-Slavery Society, 1978) 6.

<sup>4</sup> Letter from L'Union Marocaine du Travail (UMT) to the International Child Labor Study (June 22, 1994) [hereinafter UMT letter].

<sup>5</sup> U.S. Department of Commerce, Bureau of the Census, *Merchandise Trade-Imports by Commodity* (June 1994).



Morocco.<sup>6</sup> Several interviews by a Department of Labor official indicated that the vast majority of Moroccan carpets first pass through Germany, which acts as a clearing house for the global carpet export business.

An informal survey conducted by Guessous in 1994 of 10 girls working with "m'almates" (traditional teachers for carpet weaving) in the city of Sale found that all of the girls had started work before they were 13 years old.<sup>7</sup> Commonly, a m'almate will train a small group of young girls on several looms. The girls usually start between the ages of 8 and 10. They work as apprentices for five or six years before working on their own looms. During the apprenticeship, the m'almates generally do not pay the girls specific wages, but give them "pocket money."

Due to a sharp increase in foreign demand for Moroccan carpets in the 1970s and 1980s, many m'almates moved into factories, often producing carpets to order. Factory owners would pay the m'almates by the square meter of carpet produced, but maintained no direct relationship with the apprentices. Factory owners indicate that they have no control over the m'almate system and state that if they tried to change the system, they would lose skilled employees.<sup>8</sup> A Department of Labor official observed several girls under the age of 12 working on looms with m'almates in a large factory.<sup>9</sup> Guessous reports that, "(t)he president of a large carpet-making company affirmed that children currently represent anywhere from 5% to 10% of all personnel [of the handicraft carpet industry], but no study has been done to actually count the number of children working in these factories."<sup>10</sup>

## GARMENTS

Morocco's garment industry has grown significantly in recent years and now contributes roughly 20 percent to the country's total exports.<sup>11</sup> Although children are not involved in the large-scale modern garment factories, children do work in many small workshops and factories that are allegedly subcontracted by export-oriented enterprises. The United States imported over \$36 million in garments from Morocco in 1993.<sup>12</sup>

Garment industry representatives said that some factories would occasionally send part of their production out to smaller factories and workshops.<sup>13</sup> A U.S. Department of Labor official visited a small, unregistered factory in Casablanca whose owner admitted that he regularly employs children as young as 10 years old. He said they work at such tasks as cleaning, clipping threads, and folding garments. The owner maintained that a worker needs to be 15 to work on the machines. He indicated that there were many other factories similar to his in the same neighborhood. The factory owner said that he sold only in the domestic market, though he was about to

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<sup>6</sup> UMT letter.

<sup>7</sup> Guessous at 44-45.

<sup>8</sup> Guessous at 40; Interview with Mohamed Benchekroun, President of Martex, by Department of Labor official (May 28, 1994) [hereinafter interview with Benchekroun].

<sup>9</sup> Site visit of carpet factory in Sale by U.S. Department of Labor official (May 28, 1994).

<sup>10</sup> Guessous at 39.

<sup>11</sup> *Foreign Labor Trends: Morocco 1992-93* (U.S. Department of Labor, 1993) 3 [hereinafter *Foreign Labor Trends*].

<sup>12</sup> U.S. Department of Commerce, Bureau of Census, *Merchandise Trade-Imports by Commodity* (June, 1994).

<sup>13</sup> Interview with garment factory manager by U.S. Department of Labor official (May 25, 1994); Interview with garment industry expert.

take a trip in the hopes of finding a buyer in Germany. He noted that other informal factory owners, like himself, also export to countries in North Africa, Europe, and possibly the United States.<sup>14</sup>

## OTHER EXPORT INDUSTRIES

Small leather tanning and manufacturing workshops, which appear to produce almost exclusively for the domestic and North African markets, use child labor. Young children of 11 and 12 are reported to work in small, poorly ventilated workshops where they are exposed to toxic chemicals and work with hazardous machinery.<sup>15</sup> The leather tanning industry is notorious for abusing the apprenticeship system by employing children under the legal minimum age of 12.<sup>16</sup> A small amount of raw hides and leather products are imported by the United States from Morocco, but there is no evidence, as yet, that leather products made with child labor are among them. This is an industry that requires further investigation.

## III. LAWS OF MOROCCO

### A. NATIONAL CHILD LABOR LAWS

Moroccan labor law establishes that children under age 12 may not be legally employed or work as apprentices. Special regulations cover the employment of children between the ages of 12 and 16. Those under the age of 16 are prohibited from working in several industries where potentially dangerous machines are present.<sup>17</sup> In addition, they may not work nights (11 p.m.- 5 a.m.) or more than 10 hours per day.<sup>18</sup> Under law, exceptions are made for apprenticeships, in that the trainer and trainee may agree to a work arrangement with certain conditions, such as minimum wage, set outside of certain labor law requirements.<sup>19</sup>

The government is considering drafting a new labor code which would raise the minimum age of work to 14 years.

Labor inspectors from the Ministry of Labor are responsible for enforcing child labor regulations. Enforcement of labor laws is at its best in the industrialized sector of the economy.<sup>20</sup> However, the network of inspectors is

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<sup>14</sup> Site visit of informal sector textile factory, New Medina, Casablanca, by Department of Labor official (May 26, 1994).

<sup>15</sup> *Congress on the Rights of the Child* (Casablanca, May 25-27, 1994) (Statement of the Association for the Protection of Children) [hereinafter *Congress on the Rights of the Child*]; Guessous at 38.

<sup>16</sup> *Country Reports on Human Rights Practices for 1993* (U.S. Department of State, February, 1994) 1259 [hereinafter *Country Reports*].

<sup>17</sup> Dr. Mrani Alaoui Abdelali, ed., *Labor Legislation in Morocco: A Practical Guide*, n.d., at 113-14. Based on Decree of 6 September, 1957, Articles 1-17.

<sup>18</sup> *Country Reports* at 1259.

<sup>19</sup> *Labor Legislation in Morocco: A Practical Guide*, ed. by Dr. Mrani Alaoui Abdelali (published after 1984) 23 [hereinafter *Labor Legislation*]. Based on Royal Decree of 16 April 1940 and 27 March 1954.

<sup>20</sup> *Foreign Labor Trends* at 5.

stretched thin and has difficulty insuring uniform application of labor laws, including those limiting child labor.<sup>21</sup> The American Embassy noted that the small, traditional, handicraft workshops in Morocco "have always been notoriously immune to even the most rudimentary work place regulation."<sup>22</sup> The Ministry of Labor appears to accept the presumption that to properly learn traditional handicraft skills, it is necessary for children to start working at a young age.<sup>23</sup>

Union officials noted that fines imposed by labor inspectors are usually so low that there is no incentive for a factory to replace its child laborers with adults. They said that a typical child's wage would be only 10 percent of that of an adult, while fines for using children may only be \$2 to \$5 per violation.<sup>24</sup>

Guessous found that ignorance about legal limitations may also contribute to the problem of child labor. Guessous conducted a survey of 40 parents of child workers under the age of 14. When asked if they knew it was forbidden for a child under the age of 12 to work, the parents all acted shocked. None of the parents were familiar with the law and all of them disagreed with its provisions. "Do you want us to let our children play in the street? Do you want them to learn how to steal, to take drugs? And how will they live tomorrow if they don't learn a trade today?" asked one parent.<sup>25</sup>

## *B. EDUCATION LAWS*

The 1963 constitution made schooling mandatory for girls and boys ages 7 to 13. The 1982 census indicated that half of school-aged children were not in school, and of those, 95 percent had never been to school. The 1982 census found that half of children aged 5 to 14 were not educated; of these, 95 percent had never attended school.<sup>26</sup> Enforcement of the compulsory education law is lax, especially in the countryside and poorer urban areas.<sup>27</sup>

Many Moroccan parents send their children to school, but they often become disillusioned by the high cost of school supplies and the low employment rates for educated youth. Many parents distinguish, however, between public and private schooling. A majority of those interviewed for the study indicated that they would have sent their children to private schools, if they could afford it.<sup>28</sup>

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<sup>21</sup> *Id.* at 5.

<sup>22</sup> American Embassy-Casablanca unclassified telegram no. 03088, November 29, 1993.

<sup>23</sup> Interview with Minister of Labor, by U.S. Department of Labor official (May 27, 1994) [hereinafter Interview with Minister of Labor].

<sup>24</sup> Interview with L'Union Marocaine du Travail (UMT), by Department of Labor official (May 24, 1994).

<sup>25</sup> Guessous at 51.

<sup>26</sup> *Cited* in Guessous at 9.

<sup>27</sup> *Country Reports* at 1259.

<sup>28</sup> Guessous at 56-57.

And an ILO official reported that the government has set a goal of raising school attendance to 90 percent by 1997.<sup>29</sup>

### *C. INTERNATIONAL CONVENTIONS*

Morocco is party to the UN Convention on the Rights of the Child<sup>30</sup> but has not ratified ILO Convention No. 138 Concerning Minimum Age for Admission to Employment or ILO Convention No. 59 Concerning Minimum Age for Admission to Employment for Industry.<sup>31</sup> Ministry of Labor officials suggested that the government is considering ratifying the ILO Convention No. 138.<sup>32</sup>

## **IV. PROGRAMS AND EFFORTS TO ADDRESS CHILD LABOR**

To date, the Government of Morocco has done relatively little to address the problem of child labor. There has been only a small amount of activity by the trade unions and non-governmental organizations (NGOs) in the area of child labor.

A promising program was initiated in 1986 by five hand-made carpet factories, with help from the Ministry of Education, to create a school for the child laborers. Unfortunately, this innovative effort failed. One of the factory owners reported that, "the school closed in 1989 for lack of students . . . [the children] stopped attending because their parents preferred that they learn a trade which would be more certain than their studies and wouldn't last as long."

This same factory owner stated that "the only way to avoid exploiting children is to create laws which allow them to learn a handicraft and to continue their education to save them from illiteracy and abuse in factories which the labor inspectors do not visit."<sup>33</sup>

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<sup>29</sup> *Congress on the Rights of the Child*, International Labor Organization (Geneva, May 25-27, 1994) (Statement of Loic Picard).

<sup>30</sup> *Country Reports* at 1403.

<sup>31</sup> *List of Ratifications by Convention by Country (as at 31 December 1992)* (Geneva: International Labor Organization, 1993).

<sup>32</sup> Interview with Minister of Labor.

<sup>33</sup> Guessous at 43; Interview with Benchekroun.

## I. OVERVIEW

There are an estimated three million working children in Nepal.<sup>1</sup> Most working children in Nepal are in the agricultural sector and in the export-oriented carpet industry. The percentage of child workers in the carpet industry varies from an official estimate of 0.76 percent to a non-governmental organization estimate of 50 percent. There are also reports of children working in the garment industry, "thanka" painting, and in handicrafts, but the extent of child labor in these industries and their direct link to exports is not documented.

## II. CHILD LABOR IN EXPORT INDUSTRIES

### CARPETS

In 1992, Nepal exported approximately \$17 million worth of carpets to the United States.<sup>2</sup> In Nepal, the carpet business is classified as a tax-exempt cottage industry.<sup>3</sup> A substantial number of children under the age of 14 work in Nepal's carpet industry.

In the beginning of 1993, the Government of Nepal inspected 23 carpet factories, estimating that nine percent of the industry's work force were children.<sup>4</sup> Another government survey, carried out in July 1993 on 419 registered and unregistered industries in the Kathmandu Valley, found that of the 23,418 workers, 178 were children below the age of 14.<sup>5</sup> The American Embassy in Kathmandu reported that the July 1993 survey lacked credibility as many factories refused entry to labor inspectors, while others did not fill out the forms, and still others lied about the ages of child workers. The Embassy also noted that the 1992 Child Workers in Nepal Concerned Center (CWIN) study reported a figure of 50 percent child labor based on a relatively large 1992 study, as compared to the nine percent figure mentioned by the government in its first survey based on smaller sample. Furthermore, a report by the Asian-American Free Labor Institute (AAFLI) contends that the government finding of only 178 child workers was uniformly greeted with skepticism.<sup>6</sup>

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<sup>1</sup> *ICFTU-APRO Sub-Regional Seminars on Child Labor* (International Confederation of Free Trade Unions/Asian Pacific Regional Office, October 1993) Table 1.

<sup>2</sup> *U.S. Merchandise Trade: Exports and General Imports by Country* (Washington, D.C.: U.S. Department of Commerce, 1993) A299.

<sup>3</sup> Omar Sattaur, *Child Labor in Nepal* (Kathmandu: Child Workers in Nepal Concerned Center and Anti-Slavery International, 1993) 32 [hereinafter Sattaur].

<sup>4</sup> American Embassy-Kathmandu unclassified telegram no. 6168, October 22, 1993.

<sup>5</sup> *Children Employing Industries Penalized in Nepal*, The Xinhua News Agency, August 7, 1993. See also, "A Glimpse of Carpet Industries in Kathmandu Valley," Ministry of Labor - Nepal, July 1993. The government's survey found that there were 4,321 children between 14 and 18 years old, and 18,919 workers above 18 years old.

<sup>6</sup> *Child Labor in Nepal* (Asian-American Free Labor Institute, June 1994) 5 [hereinafter 1994 AAFLI Nepal Report]. The reactions were confirmed from interviews with employers, trade union leaders, and other government officials.

AAFLI researched 17 carpet factories in Nepal, interviewed over 400 children, and found at least 30 percent of the workers to be under 14 years of age.<sup>7</sup> In 1992, CWIN conducted a survey of carpet factories, finding 3,322 children below the age of sixteen.<sup>8</sup> Based on its study, CWIN estimated that 150,000 children work in some 2,000 factories in Nepal. CWIN found that most child workers are between 11 and 14 years old with about 7.8 percent below 10 years of age.<sup>9</sup> Most children in the carpet industry are wool spinners and weavers, some also dye and wash carpets.<sup>10</sup>

In 1992, CWIN found that over 47 percent of the children come to the factories alone or in groups with a "naike" or labor recruiter.<sup>11</sup> These children, sometimes as young as five years old, work long hours in cramped and stuffy rooms or sheds which lack air and light.<sup>12</sup> Some child workers sleep in another shack or a "garage-like" room with no windows for which they have to pay rent.<sup>13</sup> Children also pay for their food.<sup>14</sup>

Child workers in the carpet industry indicate that they work very long hours. Marcia Lieberman, a freelance journalist, interviewed a girl in Kathmandu, who looked to be 12 years old, knotting carpets from 7 a.m. to 10 p.m. The foreman said he too worked those same hours. In a visit to another factory, Lieberman interviewed a 10-year old girl who worked from 7 a.m. to 11 p.m. or midnight. CWIN's 1992 study also found children working an average of 15 hours a day.<sup>15</sup>

AAFLI's research of carpet factories found that child workers are paid on a flat fee rate of 350-750 rupees per month (approximately \$7.95-\$17 per month), but do not receive any pay during the "learning" period (three to

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<sup>7</sup> 1994 AAFLI Nepal Report at 6.

<sup>8</sup> "Carpet Factory: A Source of Foreign Currency and the Misery of Our Children" (Kathmandu: brochure by *Child Workers in Nepal Concerned Center*, n.d.).

<sup>9</sup> *Id.* According to the 1992 CWIN study, major districts for carpet factories are Kathmandu, Lalitpur, Rasuwa, Dhading, Nuwakot, Kavrepalanchowk, Sindhupalchowk, Dolka, Ramechhap, Kavrepalanchowk, Illiam, Jhapa, Sankhuwasabha, Terhathum, Panchthar, Dhankutta, Bhojpur, Morang, Solukhumbu, Okhaldunga, Khotang, Sindhuli, and Chitwan.

<sup>10</sup> 1994 AAFLI Nepal Report at 9.

<sup>11</sup> Gauri Pradhan, ed. *Misery Behind the Looms: Child Laborers in the Carpet Factories in Nepal* (Kathmandu: Child Workers in Nepal-CWIN, May 1993) 26 [hereinafter Pradhan].

<sup>12</sup> During visits to factories, Marcia Lieberman found children sleeping in crowded rooms with a water tap and latrine outside. *International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994) (Statement of Marcia Lieberman) [hereinafter Testimony of Lieberman].

<sup>13</sup> Lieberman found that children pay 200 rupees per month (approximately \$4.54) for rent which is paid to the factory owner. Testimony of Lieberman. CWIN's study found more than 95 percent of the children sleep on factory premises while the rest rent rooms outside the premises. About 28 percent of the children sleep on the floor, without mattresses. Pradhan at 19-20.

<sup>14</sup> Pradhan at 19.

<sup>15</sup> Pradhan at 19.

four months).<sup>16</sup> According to CWIN's 1992 study, after the training period the naike may or may not pay the child workers.<sup>17</sup>

Child weavers generally work in unhealthy conditions.<sup>18</sup> According to CWIN's 1992 report which extensively documents children's health in the carpet industry, health hazards include swollen knuckles, arthritis, eye strain, and lung diseases. Moreover, 32 percent of those interviewed were frequently sexually abused by male co-workers, naikes, and factory managers.<sup>19</sup> CWIN maintains that among the 5,000 to 7,000 Nepali girls between 10 and 20 years old who are sold to brothels in India every year, many are trafficked via carpet factories. Many young carpet girls in Kathmandu are also forced into prostitution.<sup>20</sup>

A 1993 study by the International Center for Integrated Mountain Development in Kathmandu reported cases of young girls and boys that have no choice but to render services to a factory under the constant threat of breach of contract and harassment.<sup>21</sup> CWIN estimates that seven to eight percent of the carpet children surveyed are working to pay debts incurred by their parents, which ranges from 100 to 15,000 rupees (\$2.50-\$375).<sup>22</sup>

According to the 1994 AAFLI report, none of the children surveyed were "bonded," meaning that they were being held against their will to pay off a family debt. Of the children interviewed, 100 percent were from rural villages outside Kathmandu, brought either by a naike or some relative. The children were not aware of the amount of payment made by the naikes to their parents, but this is widely understood to be the situation. The naikes pay some amount in the range of \$40-\$100 to the families to take the children to Kathmandu to work in the carpet factories. The primary benefit to the parents or family is the initial payment from the naike, as few of the children reported sending money to their families.<sup>23</sup>

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<sup>16</sup> 1994 AAFLI Nepal Report at 7.

<sup>17</sup> Pradhan at 25. In a visit to centers for street children in June 1994, Lieberman interviewed a 13 year old boy who worked for nine months in a carpet factory without pay, even though he was promised 600 rupees per month. Another 15-year old boy stated that he worked for three years in a carpet factory without pay. Many of the children (approximately 48 percent) had no idea how much they earned. Telephone Interview with Marcia Lieberman by Department of Labor official (July 1994).

<sup>18</sup> Prabha Thacker, *Technology: Women's Work and Status (The Case of the Carpet Industry in Nepal)* (Kathmandu: Mountain development Population Employment Division of the International Center for Integrated Mountain Development (ICIMOD), May 1993) 23 [hereinafter Thacker].

<sup>19</sup> Pradhan at 29. More than 15 percent of the rape incidents registered in the police department are reported to involve carpet workers.

<sup>20</sup> *Id.* Recently carpet factories have attracted the attention of the media with the disclosure that many of them run a side business of trafficking young girls across the border to India, where they are sold to brothels.

<sup>21</sup> Thacker at 20.

<sup>22</sup> Pradhan at 32; *see also* Testimony of Lieberman.

<sup>23</sup> 1994 AAFLI Nepal Report at 8.

### III. LAWS OF NEPAL

#### A. NATIONAL CHILD LABOR LAWS

According to the ILO, Nepal's law establishes a minimum age for employment of children at 14 years.<sup>24</sup> The Constitution of Nepal stipulates that children shall not be employed in factories, mines, or similar hazardous work.<sup>25</sup> The Constitution also forbids slavery, bonded labor, and the trafficking of individuals.

Other important child labor laws include the Children's Rights and Welfare Act 1992. This Act defines child as a person who has not reached the age of 16.<sup>26</sup> Article 17 prohibits the employment of children who have not attained the age of 14 years. This legislation prohibits forced labor, requires equal remuneration for equal work (Art. 17), and prohibits employment of children in hazardous work (Art. 18). Child laborers are entitled to leisure for a half-hour for every three hours of work, and one day off every week (Art. 47).<sup>27</sup> The Labor Act of 1992 prohibits employment of minors under 14 years of age and regulates the work hours of "minors" between the ages of 14 to 18.<sup>28</sup> This Act applies to children working in urban industries and provides for labor inspectors in each district.

The Nepal Department of Labor has a "spotty" enforcement record.<sup>29</sup> In 1993, the Labor Ministry fined 23 factories for employing children. Overall, however, the government's action has been inadequate to reduce the incidence of child labor. The Labor Secretary of Nepal states that there are 11 regional labor offices throughout Nepal and approximately 22 officers with responsibilities encompassing occupational safety and health, industrial relations, negotiations, training, and education, as well as the enforcement of the child labor law.<sup>30</sup> The Secretary stated that in reality, inspectors do not look for child labor. And although factories were "penalized"

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<sup>24</sup> *Conditions of Work Digest*, vol. 10, no. 1, (Geneva: International Labor Organization, 1991).

<sup>25</sup> *Country Reports on Human Rights Practices for 1993* (U.S. Department of State: February 1994) 1369 [hereinafter *Country Reports*].

<sup>26</sup> Gopal Siwakoti, "Nepal: Does The Law Really Protect the Child?," in *International Children's Rights Monitor*, vol. 10, nos. 1-2 (1993) 12.

<sup>27</sup> *Id.* at 14. According to the State Department *Country Reports*, this Act calls for the establishment of Child Welfare Committees and orphanages. Many of these facilities are not yet in place. *Country Reports* at 1369.

<sup>28</sup> Sattaur at 37.

<sup>29</sup> *Country Reports* at 1369.

<sup>30</sup> Interview with Dr. Prabha Basnet, Nepal Secretary of Labor by Department of Labor officials (December 9, 1993).



for employing children, sanctions were never enforced. When surveyors and officials seek to enter carpet factories, they often are denied access.

## **B. EDUCATION LAWS**

Education is not compulsory in Nepal. The government has a stated policy of providing free education through the 6th grade, but this policy reportedly is not implemented.<sup>31</sup> Anti-Slavery International and Child Workers in Nepal (CWIN) states that the government offers free tuition and textbooks and tuition for children in grades one to three, and grades four and five for children in rural areas.<sup>32</sup> Parents, however, still have to provide stationary, which can amount to rupees 200 (approximately \$4.54) per child per year. This is a substantial financial burden, especially on poor families. Moreover, access to schools is limited, especially in rural areas, and most schools have no latrines or drinking water.<sup>33</sup>

## **C. INTERNATIONAL CONVENTIONS**

Nepal is a party to the U.N. Convention on the Rights of the Child. Nepal has not ratified ILO Convention No. 59 Concerning Minimum Age for Admission to Employment in Industry, or ILO Convention No. 138 Concerning Minimum Age for Admission to Employment.<sup>34</sup>

# **IV. PROGRAMS AND EFFORTS TO ADDRESS CHILD LABOR**

Responding to the threat of an international ban on carpets made by child labor, the government, non-governmental organizations, and the private sector have expressed interest in creating a "child labor free" certification to be used in the carpet industry.<sup>35</sup> According to the Minister of Commerce, the Rugmark certification will be implemented by the end of 1994.<sup>36</sup> Carpet manufacturers, non-governmental organizations, and the Nepal-German Chamber of Commerce and Industry have formed the National Society for Protection of the Environment and Children (NASPEC) to eliminate child labor in Nepal, rehabilitate child workers, and

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<sup>31</sup> 1994 AAFLI Nepal Report at 3.

<sup>32</sup> Sattaur at 16.

<sup>33</sup> *Id.* at 17.

<sup>34</sup> *Lists of Ratifications by Convention and by Country (as at December 1992)* (Geneva: International Labor Organization, 1993).

<sup>35</sup> *Country Reports* at 1369. In late April 1994, a German television show on child labor in the carpet industry allegedly caused a cancellation of carpet orders, leading to a flurry of industry debate and dissension. As a result, AAFLI reports that in one town, Phaperbari (Makawanpur District), 50 percent of children previously working in carpet factories have been fired from their jobs and have returned home. AAFLI further alleges that previous interest by factory owners to set up model schools for child workers has dissipated. American Embassy-Kathmandu unclassified telegram no.3742, July 7, 1994. In the meantime, a small group of carpet factory owners plan to establish a certification system for child-free carpets sooner and separate from the NASPEC program. Letter from Asian-American Free Labor Institute-Nepal to International Child Labor Study (July 5, 1994).

<sup>36</sup> American Embassy-Kathmandu unclassified telegram no. 3742, July 7, 1994.

control industrial pollution.<sup>37</sup> NASPEC will work to eliminate child labor in all sectors, but initially will focus on the carpet industry. It plans to establish a "Producers Group" to implement a program to certify that carpets are produced without child labor.<sup>38</sup> The group's first stated task is to establish an independent agency to inspect carpet factories. Carpet manufacturers who do not employ children or receive any materials produced by children under 14, and who pay at least the minimum wage, will be eligible to receive an internationally recognized "rugmark" certification to affix to their carpets. NASPEC also pledges to establish a non-governmental organization to support the health, education, and welfare of child workers who will lose their jobs.

The non-governmental organization, Child Workers in Nepal (CWIN), has been conducting a series of studies on children working in Nepal and is active on child rights.

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<sup>37</sup> American Embassy-Kathmandu unclassified telegram no. 584, January 31, 1994.

<sup>38</sup> *Id.*

## I. OVERVIEW

Although most Pakistani children work in the agricultural sector, a large number of children work in urban centers weaving carpets, manufacturing surgical instruments, and producing sporting goods for export. There are allegations of children working in other industries including leather, footwear,<sup>1</sup> and mining. Further research is required as the connection between child labor in these industries and the importation of such items to the United States is not clear.

Data on the Pakistan labor force and child labor is unreliable. Nevertheless, there is little doubt that child labor has assumed massive proportions in Pakistan. The actual total number of working children in Pakistan is probably somewhere between 2 and 19 million.<sup>2</sup>

Millions of children in Pakistan suffer under a system of bonded labor. The bonded labor system consists of giving advances of "peshgi" (bonded money) to a person. As long as all or part of the peshgi debt remains outstanding, the debtor/worker is bound to the creditor/employer. In case of sickness or death, the family of the individual is responsible for the debt, which often passes down from generation to generation. In the case of children, the peshgi is paid to a parent or guardian, who then provides the child to work off the debt.

Bonded labor has long been a feature in brick kilns, carpet industries, agriculture, fisheries, stone/brick crushing, shoe-making, power looms, and refuse sorting.<sup>3</sup> The Bonded Labor Liberation Front estimates that eight million

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<sup>1</sup> The International Textile, Garment, and Leather Workers Federation alleges that children 10 and 11 years old are sick and deformed from years of sniffing glue in a shoe factory. "Action to End Child Labor Urged," *International Textile, Garment and Leather Workers' Federation Newsletter*, Issue No. 1 (1994).

<sup>2</sup> The Pakistan Labor Force Survey (1990-1991) put the number of child workers in the age group 10 to 14 at two million. The Pakistan Institute of Development Economics maintains that two million is a gross underestimate because a) of serious under-reporting due to the fact that child labor is illegal, and b) working children below 10 years are not included. A. R. Kemal, *Child Labor in Pakistan* (Pakistan: UNICEF-PIDE, 1994) 5-6 [hereinafter Kemal]. A 1990 UNICEF study estimated the total number of children at not less than 8 million. Pakistan's Secretary of Labor, Mr. Sultan Hameed, stated that the UNICEF figure was "on the high side," but appeared to accept the figure as being in the general range. Interview with Sultan Hameed, Pakistan Secretary of Labor, by Department of Labor official (May 19, 1994).

Economists at the Pakistan Institute of Development Economics estimate there are 19 million working children, 7 million below the age of ten, and 12 million between 10 and 14 years old. Mazam Mahmood, Muhammad Javaid Khan Tariq, and Ajmal Baig, *Why children do not go to school in Pakistan* (Pakistan Institute of Development Economics - 10th Annual General Meeting, April 2-5, 1994) 8-9. The American Embassy-Islamabad, questioned the 19 million figure given the fact that the total labor force in Pakistan is 33 million (or 29.8 million according to the World Factbook). The Embassy observed that the 19 million figure "seems high unless the number of workers in the labor force is widely underestimated." Unclassified memorandum from American Embassy-Islamabad to International Child Labor Study (June 1, 1994).

<sup>3</sup> "Pakistan: Bonded Labor Abolition Act Passed At last," *Social and Labor Bulletin* (April 1992) 443 [on file].

children are bonded in Pakistan.<sup>4</sup> Half a million are allegedly bonded in the carpet industry alone. Some of these children reportedly come from Afghanistan, Bangladesh and Burma.<sup>5</sup>

In September 1988, the Pakistan Supreme Court, in a well-publicized case against brick kiln owners, legally abolished the "peshgi" (bonded) system. This Supreme Court decision, however, stopped short of forgiving past debts.<sup>6</sup> The Bonded Labor (Abolition) Act of 1992 abolished and made illegal bonded labor in Pakistan, and cancelled all obligations of bonded laborers to their employers.

## II. CHILD LABOR IN EXPORT INDUSTRIES

### CARPETS

The most widely recognized export product from Pakistan using child labor is carpets. In a meeting with an official of the U.S. Department of Labor, the Pakistan Secretary of Labor maintained that carpet weaving is the only major export industry employing children. The U.S. State Department *Country Reports on Human Rights Practices for 1993* concurs.<sup>7</sup>

In 1993, the Provincial Labor Departments compiled statistics on child labor in nine industries.<sup>8</sup> The study found that in carpet industries, 2,463 children under 14 years of age were found, and another 4,246 were between 14 and 17 years old. A 1992 UNICEF-Punjab report asserted that according to conservative estimates, one million out of 1.5 million workers in the carpet industry in Pakistan were children.<sup>9</sup> A separate 1992 UNICEF/Government of Pakistan study reported that 90 percent of the one million workers in the carpet industry are children, many of whom began working in the industry before 10 years of age.<sup>10</sup>

The Human Rights Commission of Pakistan found that weaving thrives in self-contained homesteads, where labor is cheap and readily available. The Pakistan Carpet Manufacturers and Exporters Association (PCMEA) describes the Pakistani carpet industry as follows:

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<sup>4</sup> "The Battle Goes On," *Child Workers in Asia*, vol. 8, no. 4; vol. 9, no. 1 (October-December, 1992, and January-March 1993) 39.

<sup>5</sup> Ehsan Ullah Khan, *Child Labour and Bonded Labour in Pakistan: A Country Report*, (Bonded Labor Liberation Front, n.d.) [on file].

<sup>6</sup> *Discover the Working Child: The Situation of Child Labour in Pakistan 1990* (Government of Pakistan and UNICEF, 1991) 17 [hereinafter *Discover the Working Child*].

<sup>7</sup> *Country Reports on Human Rights Practices for 1993* (U.S. Department of State, February 1994) 1386 [hereinafter *Country Reports*].

<sup>8</sup> "Government of Pakistan's Replies to the Questions/Points Raised in the Non-Paper on GSP Worker Rights" [UNOFFICIAL DOCUMENT] released to the GSP Sub-Committee (April 11, 1994) [hereinafter Government of Pakistan's Reply to Non-Paper on GSP].

<sup>9</sup> *Child labor in the carpet weaving industry in Punjab* (Punjab: UNICEF, 1992) 7 [hereinafter UNICEF Punjab Report].

<sup>10</sup> *Situation Analysis of Children & Women in Pakistan* (UNICEF and Government of Pakistan, 1992) 84.

*The Pakistan carpet industry is primarily a cottage-based industry employing around 1.5 million people, with heavy concentration in Punjab and Sind provinces. Of this an estimated 8 percent are children of which the major portion is comprised of family unit labor. Only 10 percent of the looms are in factories of 10-30 looms each, while 90% of the weaving is based in village homes where the amount of work done is by choice of the family unit and beyond the manufacturers and contractors control.*<sup>11</sup>

Despite legal limitations, child labor is widespread in the carpet industry, where much production comes from the family-run cottage industry.<sup>12</sup> The Government of Pakistan is fully aware of the existence of child labor in the carpet industry. In March 1992, the Center for the Improvement of Working Conditions and Environment, within the Labor Department of the Government of Punjab, in conjunction with UNICEF, reported that over 80 percent of the carpet weavers in Punjab are children under 15, including 30% under 10.<sup>13</sup>

Child weavers suffer work-related injuries and illnesses, such as injuries due to sharp instruments, respiratory tract infections, and body aches. They also remain uneducated, 42 percent never having attended school and 58 percent having dropped out.<sup>14</sup>

In May 1994, the Asian-American Free Labor Institute (AAFLI) investigated five carpet factories in the Lahore area and found child labor in four of them. None of these factories was a "parent-child" operation. The AAFLI report found that carpet exporters did not deny the existence of child labor in the carpet industry and acknowledged that the bonded labor system or "peshgi" is regularly practiced, even though it violates the 1992 Bonded Labor Abolition Act.<sup>15</sup>

The 1992 UNICEF-Punjab report details the conditions of child labor in the carpet weaving industry in Punjab. The study surveyed 10 villages and interviewed 175 children in carpet weaving centers in Punjab. It concluded that carpet weaving is done mostly by children.<sup>16</sup> Eighty-three percent of the survey were male children, but access to predominantly female carpet weaving centers was restricted.<sup>17</sup> The study found the earnings depended on the number of knots per square foot.<sup>18</sup> Earnings were low and some children in "training" status did not earn

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<sup>11</sup> "A Study on Child Laborers in Pakistan Hand-Knotted Carpet Industry" Pakistan Carpet Manufacturers and Exporters Association (PCMEA), included as attachment in "Replies to the Questions-Points Raised in the Non-Paper on GSP Worker Rights [unofficial document] (April 11, 1994) [on file] [hereinafter PCMEA Study].

<sup>12</sup> *Country Reports* at 1386.

<sup>13</sup> UNICEF Punjab Report at iv.

<sup>14</sup> *Country Reports* at 1386. See also *International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994)(Statement of Human Rights Watch/Asia) [hereinafter Testimony of Human Rights Watch/Asia].

<sup>15</sup> *A Report on Child Labor in Pakistan* (Asian-American Free Labor Institute, June 1994) 5-6 [on file] [hereinafter 1994 AAFLI Pakistan Report].

<sup>16</sup> UNICEF Punjab Report at 11.

<sup>17</sup> *Id.* at 11.

<sup>18</sup> *Id.* at 13.

anything. The maximum wage was 40 rupees (approximately \$1.50) per day.<sup>19</sup> The majority of the children worked between 9 and 10 hours per day with a one hour break. They ate three meals a day, consisting of bread/rice, dal (lentils) or vegetables.<sup>20</sup> Fifty-one percent of the children expressed dissatisfaction with their jobs. Ninety-four percent of the children suffered one or more work-related illness or injuries, which included fingertip and hand injuries due to handling sharp knives, as well as physical abuse.<sup>21</sup> Finally, the report states that contrary to expectation, conditions of work for children weaving at homes were found to be no better and often even more detrimental to the child's welfare than for those working in private workshops. Parents tended to keep their children at the loom for longer hours and the working environment at home was on the whole not as well ventilated nor adequately lit.<sup>22</sup>

Carpet manufacturers often avoid labor regulations by subcontracting to "thekedars," or middlemen, who control several looms set up in the weavers homes scattered throughout the countryside.<sup>23</sup> Since factories employing less than 10 workers are not covered by most labor laws, large carpet enterprises have divided up into smaller units.<sup>24</sup>

The Human Rights Commission of Pakistan states that work units in rural areas have more child labor than urban areas. In these village units, the children are mostly girls, some only six or seven years old; boys are barely eight. Working conditions are poor, lighting and ventilation inadequate, hygienic conditions substandard, and the work area hot and humid. Workers complain of coughs and sickness. The workers usually work 10-hour days, with no holidays and are paid on a piece-rate basis. Child workers pay is as low as 10 rupees (approximately 37 cents) per day; teenagers, however, earned 20-30 rupees (74 cents to \$1.13) per day, and can even get 50 to 75 rupees (\$1.87 to \$2.81) per day for superior quality carpets.

UNICEF describes the work as painful and unhealthy; children sit in cramped positions for long periods of time, breathing wool dust, working under poor lighting conditions, straining their eyes and working with chemical dyes. The children also develop spinal deformities.<sup>25</sup> . . . . .

Human Rights Watch/Asia notes many of the children in the carpet industry are bonded.<sup>26</sup> In some situations, parents force the children to work. In other situations, children are separated from their families and kept in small buildings which house several carpet looms. Human Rights Watch/Asia interviewed several children in such factories who were beaten frequently and rarely allowed to return home. It was noted that if the children attempted to escape they were forcibly returned to the looms with the help of the local police.<sup>27</sup>

## **SURGICAL INSTRUMENTS**

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<sup>19</sup> *Id.* at 13.

<sup>20</sup> *Id.* at 14.

<sup>21</sup> *Id.* at 15-16.

<sup>22</sup> *Id.* at iv.

<sup>23</sup> *Id.* at 2. *See also Discover the Working Child* at 19.

<sup>24</sup> *Discover the Working Child* at 19.

<sup>25</sup> *Discover the Working Child* at 19.

<sup>26</sup> Testimony of Human Rights Watch/Asia.

<sup>27</sup> *Id.*

The United States imports surgical instruments from Pakistan, especially from the Sialkot area.<sup>28</sup> Although there are no comprehensive studies on child labor in the production of surgical instruments for export, the International Textile, Garment and Leather Workers Federation claims that children between the ages of 10 and 15 years spend eight hours a day grinding and sanding surgical instruments.<sup>29</sup> The Government of Pakistan's chart on child labor compiled by the provincial governments in 1993 shows 3,670 children under 17 working in this industry. The South Asian Coalition Against Child Servitude also maintains that there are thousands of children working in this industry.<sup>30</sup>

## SPORTING GOODS

According to the South Asian Coalition on Child Servitude, children are working in the sporting goods industry in Sialkot and adjoining towns and villages. The Pakistan Human Rights Commission found no child labor in factories that supply international sporting goods firms, but children have been found stitching soccer balls for export in cottage-level family units.<sup>31</sup> Children constitute approximately 20 percent to 25 percent of the work force in this sector, and range in age from 12 to 15 years. They work five to six hours per day. The wages are either fixed at 800-900 rupees per month (approximately \$30-33) or on a piece-work basis at 20 rupees (approximately 75 cents) per football). A child can usually stitch three footballs (soccer balls) a day.<sup>32</sup>

## III. LAWS OF PAKISTAN

### A. NATIONAL CHILD LABOR LAWS

In Pakistan, a "child" is defined as a person younger than fifteen.<sup>33</sup> The legal minimum age for employment is 14 for shops and commerce, industry, and work at sea, and 15 for mines and on railways.<sup>34</sup> The Constitution

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<sup>28</sup> Search of *Piers Imports database* (Journal of Commerce, 1994) June 1994.

<sup>29</sup> Wendy Cane, "Child Labor in the Production of Surgical Instruments in Pakistan," November 22, 1993 [unpublished manuscript] [on file].

<sup>30</sup> Letter from South Asian Coalition Against Child Servitude to International Child Labor Study (January 13, 1994) [on file].

<sup>31</sup> Letter from the Human Rights Commission of Pakistan to the International Child Labor Study (May 3, 1994) [on file].

<sup>32</sup> Letter from the Human Rights Commission of Pakistan to Defence for Children International (Geneva), April 19, 1994 (attachment to 5/3/94 letter from the Human Rights Commission of Pakistan to the International Child Labor Study) [on file].

<sup>33</sup> UNICEF Punjab Report at 50. See 3a and 3b, Employment of Children Act 1938.

<sup>34</sup> "Child Labor: Law and Practice," *ILO Conditions of Work Digest*, vol. 10, no. 1 (Geneva: International Labor Organization, 1991).

of the Islamic Republic of Pakistan prohibits slavery, forced labor, the trafficking in human beings, and employment of children below the age of 14 years in any factory or mine or any hazardous employment.

The Bonded Labor (Abolition) Act declares all customs, traditions, practices, contracts or agreements concerning bonded labor, whether entered into or in operation before or after the effective date of the legislation, void and inoperative. Any obligations on the part of the bonded laborer to repay any bonded debt were cancelled and no suit could be brought for the recovery of such a debt. Special provisions in this Act provide for setting up of Vigilance Committees to advise the district administration on matters relating to the effective implementation of freed bonded laborers, application of the law, and providing the bonded laborers with necessary assistance. The penalties for violating this law are imprisonment from two to five years and/or a fine of 50,000 rupees. According to the U.S. Department of State, little progress was made in 1993 in the industries employing bonded laborers.<sup>35</sup>

The Employment of Children Act 1991 prohibits the employment of children in certain occupations and regulates their conditions of work. No child is allowed to work over-time or during the night.<sup>36</sup>

An earlier law prohibited the employment of children in the following industries: bidi (cigarette) making; carpet making; cement manufacturing (including bagging of cement); cloth dyeing, printing, and weaving; manufacturing of matches, explosives, and fireworks; mica cutting and splitting; shellac manufacture; soap manufacture; tanning; and wood cleaning. The 1991 law added the following industries: shoe-making, leather, power looms, fishing, glass, garments, precious stones, metal and wood handicrafts, furniture, and paper.

Enforcement of child labor laws in Pakistan is hampered by the lack of manpower and expertise in the Department of Labor and a general acceptance of child labor, according to Professor Omar Noman.<sup>37</sup> Pakistan has appointed a Task Force for Labor to consider improving enforcement mechanisms and increasing penalties.<sup>38</sup> It also directed provincial governments to provide data on the number of cases prosecuted and fines imposed under existing child labor and bonded labor laws.<sup>39</sup> However, according to the Government of Pakistan, only one case of bonded labor was found in the Punjab province.<sup>40</sup> A National Committee on the Rights of the Child has been established within the federal government specifically to monitor enforcement and protection issues related to child workers.<sup>41</sup>

The Government of Pakistan asserts that labor inspectors are empowered to carry out regular visits to all employment places covered under the Employment of Children Act 1991 to check on their compliance with the

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<sup>35</sup> *Country Reports* at 1385.

<sup>36</sup> Kemal at 39.

<sup>37</sup> *International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994)(Statement of Professor Omar Noman, Oxford University) [hereinafter Testimony of Noman].

<sup>38</sup> Government of Pakistan's Reply to the Non-Paper on GSP at 21.

<sup>39</sup> The Government of Pakistan twice agreed to provide information to the Child Labor Study on the number of prosecutions and convictions carried out under the Bonded Labor Act and the Employment of Children Act. To date, no information has been received.

<sup>40</sup> Government of Pakistan's Reply to the Non-Paper on GSP at 23.

<sup>41</sup> *International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994) (Statement of the Embassy of Pakistan).



law. Violators are to be prosecuted.<sup>42</sup> To date, the Act remains essentially unimplemented and does little to promote much needed enforcement mechanisms.<sup>43</sup>

## ***B. EDUCATION LAWS***

The Constitution of Pakistan, in Articles 37 (b) & (c), declares public policy to:

*remove illiteracy and provide free and compulsory secondary education within the minimum possible period [and to] make technical and professional education generally available and higher education equally accessible to all on the basis of merit.*<sup>44</sup>

Among Asian countries, Pakistan ranks 27 out of 28 countries in its literacy rate of 26.2 percent.<sup>45</sup> Despite a 1962 law requiring each province to designate areas where primary education is compulsory, none of the provinces have complied. The Government of Pakistan recently noted, however, that the Punjab government has decided to provide compulsory primary education free of cost to every child.<sup>46</sup>

According to the U.S. State Department *Country Reports on Human Rights Practices for 1993*, schools are available in most localities, but they have very limited staff, space, and resources.<sup>47</sup> Government figures show that less than 65 percent of children between five and nine attend primary school, and more than 50 percent of those drop out before finishing their primary education. Many observers believe that even these figures are optimistic.

## ***C. INTERNATIONAL CONVENTIONS***

Pakistan is a party to ILO Convention No. 59 Concerning Minimum Age for Employment in Industry and the U.N. Convention on the Rights of the Child. Pakistan has not ratified ILO Convention No. 138 Concerning Minimum Age for Employment.<sup>48</sup>

# **IV. PROGRAMS AND EFFORTS TO ADDRESS CHILD LABOR**

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<sup>42</sup> Government of Pakistan's Reply to the Non-Paper on GSP at 18.

<sup>43</sup> *Country Reports* at 1386.

<sup>44</sup> Testimony of Noman.

<sup>45</sup> "The Path to Freedom - BLLF Pakistan," in *Child Workers in Asia*, vol. 8, no. 4 & vol. 9, no. 1 (October-December 1992, and January-March 1993) 36.

<sup>46</sup> Government of Pakistan's Reply to the Non-Paper on GSP at 19.

<sup>47</sup> *Country Reports* at 1382.

<sup>48</sup> *Lists of Ratifications by Convention and by Country (as at December 1992)* (Geneva: International Labor Organization, 1993).

In its 1993 Manifesto, the Pakistan People's Party stated that contract labor, bonded labor, and child labor will be abolished.<sup>49</sup> Pakistan claims to have taken concrete steps to protect the rights of the child and to eliminate child labor in all sectors of the economy, including the carpet industry.<sup>50</sup> Secretary of Labor, Sultan Hameed, maintains that the present government has demonstrated the "political will at the highest level" to address the issue. He also stated that the federal government held a meeting with the provincial governments and has asked for periodic progress reports from the provinces on prosecutions and convictions of child labor violations. According to the Labor Secretary, the Labor and Commerce ministries are considering setting up an agency to certify that products manufactured for export are not made by child labor. The government would like to identify a foreign non-governmental organization to act as the certifying authority to lend more credibility to the process.<sup>51</sup> Recently, the Government signed a Memorandum of Understanding with the International Labor Organization to cooperate in establishing a national program on child labor. It has also worked with UNICEF in preparing studies and hosting a conference on child labor.

In other efforts to address the problem of child labor, the Pakistan Carpet Manufacturers & Exporters Association (PCMEA) has suggested the formation of a Committee for the Eradication of Child Labor (FECL), comprised of members from the PCMEA, government agencies, non-governmental organizations, and human rights organizations. The objective would be to coordinate efforts to erase all illegal and exploitative forms of child labor<sup>52</sup> by setting up individual welfare projects which would provide primary education, basic medical facilities, conduct surveys, and issue labels certifying that a carpet was free of illegal child labor.

UNICEF has conducted several studies in Pakistan on child labor and publicizes the hazards of child labor in many public settings. The Bonded Labor Liberation Front promotes education for child workers through their program, "Struggle Against Slavery Through Education." It has set up 122 small schools with 5000 freed bonded children between 6 and 12 years. The BLLF plans to have 200 schools by the end of 1994.

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<sup>49</sup> *Pakistan Peoples Party Manifesto 1993: Public-Private partnership: An Agenda for Change* (Central Secretariat, PPP, Karachi-Pakistan, n.d.) [on file].

<sup>50</sup> American Embassy-Islamabad unclassified telegram no. 5130, May 26, 1994; Interview with Pakistan Secretary of Labor Sultan Hameed by Department of Labor official (May 19, 1994).

<sup>51</sup> American Embassy-Islamabad unclassified telegram no. 5130, May 26, 1994.

<sup>52</sup> PCMEA Study at 4.

### I. OVERVIEW

Child labor is recognized as a serious problem in the Philippines. In the third quarter of 1991, the Philippine Department of Labor and Employment (DOLE) estimated that there were 777,000 Filipino workers between the ages of 10 and 14, and 1.4 million between 15 and 17 years. These figures exclude the large number of working children below the age of 10.<sup>1</sup> In a recent article, however, DOLE reportedly acknowledged that, altogether, at least five million children work in commercial and industrial sectors in the Philippines.<sup>2</sup> These figures coincide with UNICEF and ILO estimates of 5 to 5.7 million working children.<sup>3</sup>

The Filipino garment industry commonly uses child labor in the manufacture of products exported to the United States.<sup>4</sup> Child labor is allegedly found in wood and rattan furniture making and in gold mining, but further research is required. In addition, there are reports of child labor in food processing (including sardine canning),<sup>5</sup> fireworks/pyrotechnics, footwear, plastic bags, and so-called "muroami fishing";<sup>6</sup> but there is little evidence that

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<sup>1</sup> *Children of Toil* (Manila: Youth Department of the Trade Union Congress of the Philippines (YD-TUCP), October 18, 1992) 5.

<sup>2</sup> Nestor Arellano, "5M Children Working in Sweatshops," *Today (Philippines)*, April 4, 1994.

<sup>3</sup> Eileen Guerro, "Children Victims and Result of Poverty in Philippines," *Associated Press*, June 30, 1993.

<sup>4</sup> American Embassy-Manila unclassified telegram no. 27135, December 9, 1993. The information provided was based on a University of the Philippines Office of Research Coordination study which was undertaken in conjunction with the Government of Philippines' UNICEF-assisted "Breaking Ground for Community Action on Child Labour Project." The latter documented the pervasive use of child labor in the garment industry's subcontracting operations.

<sup>5</sup> In July 1993, the Kamalayan Development Center (KDC) and the National Bureau of Investigation (NBI) raided a sardine factory in Navotas, and found seven children under 17 years of age working in sweatshop conditions. Children in the sardine factories filled cans with sliced fish parts. See *Country Reports on Human Rights Practices for 1993* (U.S. Department of State, February 1994) 724 [hereinafter *Country Reports*]. See also "Young's Town Rescue," *Child Workers in Asia*, vol. 9, no. 3 (July-September 1993) 15. In May 1994, the Philippine Department of Labor and Employment (DOLE) and the NBI raided this sardine factory again, as it continued to operate despite an order to shut down. Labor officials and NBI agents reportedly found about a hundred 'exploited' children working in the Sardine factory during the second raid. The child workers, whose ages range from 10 to 17 years, have not been paid regularly or sufficiently. According to Labor Secretary Nieves Confesor, the company, which was ordered to close down by the NBI, has continued to operate because its owner is being protected by a local official of the Philippine National Police. "Confesor urges boycott of firms employing minors," *Philippine Daily Inquirer* (Manila), May 20, 1994.

<sup>6</sup> Muro-ami, a Japanese term for the type of net used, refers to a method to catch elusive reef fish that are difficult to harvest. According to the ILO, fishing corporations employ children between 12 and 14 years of age, who spend 10 months a year out at sea, swimming and diving to a depth of 100 feet to attach nets to coral reefs. These children have no protective swimwear and are subjected to needlefish and shark attacks, and diseases like typhoid. Victoria Rialp, *Children*

these items are exported to the United States with any regularity. There are no statistics on the number of child workers in Filipino export industries.

## II. CHILD LABOR IN EXPORT INDUSTRIES

### GARMENTS AND EMBROIDERY

In 1993, the Philippines exported over \$1 billion worth of garments to the United States.<sup>7</sup> Studies report that children work on a piece-work basis at home, or in makeshift work places under a subcontracting system.<sup>8</sup> Children sew, make button holes, trim, fold, wash, and pack garments.<sup>9</sup> In smaller factories and home sites, children also embroider and smock clothes, including baby dresses.<sup>10</sup>

A 1990 study by Professor Corazon J. Veneracion of the University of Philippines documented young children working in the garment industry through the subcontracting system in Taal, Pandi, and the Malibong Matanda areas.<sup>11</sup> Export products to the United States include embroidered blouses, skirts, dresses, table cloths, place

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*and Hazardous Work in the Philippines* (Geneva: International Labor Organization, 1993) 6-8 [hereinafter Rialp]. See also Professor Nymia Simbulan, *Children in Trouble: Its Socio-Economic Dimensions* (unpublished manuscript, n.d.) 16 [on file] [hereinafter Simbulan]. See also Henk van Oosterhout, "Child Labor in the Philippines: The Muro-Ami Deep Sea Fishing Operation," in *Combating Child Labor* (Geneva: International Labor Organization, 1988) 109-122.

<sup>7</sup> U.S. Department of Commerce, International Trade Administration, Office of Textiles and Apparel, *Major Shippers Report: Textiles and Apparel* (June 11, 1994).

<sup>8</sup> Rosario del Rosario, *Subcontracting Networks in the Garment Industry in Taytay and Angono, Rizal* (University of the Philippines and UNICEF, November 1990) 25-27 [hereinafter Rosario del Rosario]. Julio Macaranas, *Child Labor in the Philippines* (Washington, D.C.: International Labor Rights Education and Research Fund, January 3, 1994) 5-6. There are several studies on children in the garment industry. See also, Mary Ann Ruiz, Ruby Dimaano, Carmelita Rayala, "Children in the Garment Industry," *Philippine Labor Review*, vol. 10, no. 1 (January-June 1986) 25. See also a 1994 report of the International Confederation of Free Trade Unions, which found children working as subcontractors in the Philippine garment industry. "Child labor: The world's best kept secret," *International Confederation of Free Trade Unions* (Brussels: June 1994).

<sup>9</sup> Rosario del Rosario at 1.

<sup>10</sup> Joseph Albright and Marcia Kunstel, "Work That Never Ends," in *Stolen Childhood*, Cox Newspapers (June 21-26, 1987) 13 [hereinafter Albright and Kunstel].

<sup>11</sup> Professor Ma. Corazon J. Veneracion, *Subcontracting Networks in the Garments Industry in Bulacan* (Manila: University of the Philippines - Office of Research Coordination, for "Breaking Ground for Community Action on Child Labor" - a UNICEF-assisted Project, November 1990). The report describes the garment industry in Taal, Pandi, and Malibong Matanda, the production and marketing process in embroidery and garment sewing, as well as the work and employment conditions in these regions.

mats, and potholders.<sup>12</sup> While most workers were young adult women, 11 to 14 year old children removed excess thread, folded, trimmed, patched,<sup>13</sup> and embroidered the garments.

A 1993 ILO report found that children generally worked long hours in poor, unhealthy and crowded conditions and received less than a third of the legislated minimum wage.<sup>14</sup> Some children work 11 hours per day<sup>15</sup> or up to 30 hours per week in addition to attending school.<sup>16</sup> Children who stay at the factory pay rent, as well as expenses for needles, threads, and machine repairs, which are deducted from the salary.<sup>17</sup>

Children working in garment factories complain of lack of sleep, fatigue (especially during rush periods), colds, cough, headaches, finger and leg cramps, allergy to textile dust, and eye strain.<sup>18</sup> Children working at smaller factories or home sites also suffer from various work-related health problems, including back strain, hand cramps after long hours of stitching, and sometimes scissor cuts.<sup>19</sup>

## WOOD AND RATTAN FURNITURE

Rattan furniture is a long-established Philippine export to the United States.<sup>20</sup> Children are more likely to be found working in the subcontracted furniture shops than in larger factories.<sup>21</sup>

A 1988 ILO study describes children assembling furniture pieces, weaving seats, and varnishing wood.<sup>22</sup> Approximately 88 percent of the children sampled for the study worked in industrial establishments, while only 12 percent worked for subcontractors as "home-based outworkers." Children working in factories received 15 to 25 pesos per day (approximately 61 cents to \$1). About 29 percent of the children were compensated with free food or were unpaid; the rest were paid on a piece rate basis.<sup>23</sup> About 48 percent of these children work between 15 to 25 hours a week, while 13 percent work more than 50 hours for less than minimum wage.

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<sup>12</sup> *Id.* at 10.

<sup>13</sup> *Id.* at 14-15.

<sup>14</sup> Rialp at 2.

<sup>15</sup> Rosario del Rosario at 11.

<sup>16</sup> Assefa Bequele and Jo Boyden, eds., *Combating Child Labour* (Geneva: International Labor Organization, 1988) 84 [hereinafter *Combating Child Labor*]. In 1988, according to the ILO, 84 percent of the children in the garment industry work between 15 and 30 hours per week.

<sup>17</sup> Rosario del Rosario at 11.

<sup>18</sup> *Id.* at 12.

<sup>19</sup> *Id.*

<sup>20</sup> Albright and Kunstel at 13.

<sup>21</sup> Interview with the Trade Union Congress of the Philippines (TUCP) by Department of Labor official (May 1994).

<sup>22</sup> *Child Labor in the Philippines: Wood-Based and Clothing Industries* (Institute of Industrial Relations, University of the Philippines) reprinted in *Combating Child Labor* at 85.

<sup>23</sup> *Id.* at 84.

Children and others working in woodworking factories are subject to inhaling large amounts of wood dust due to the lack of ventilation.<sup>24</sup> The study found that children frequently mishandle dangerous chemicals, resulting in skin diseases, respiratory irritations, and visual disturbances.<sup>25</sup>

## **GOLD MINING**

In 1992, the Philippines exported almost \$2 million worth of non-monetary gold and approximately \$16 million of gold and silver jewelry to the United States.<sup>26</sup> A study in 1992 on gold mining in the South Catabato region reports that small-scale mining produces an average of 3,000 bags of ore (25 kilograms or 55 pounds each) per day.<sup>27</sup> It is alleged that some packers, who carry the bags of gold down the hill, are as young as seven and eight.<sup>28</sup> The children reportedly earn between 40 and 50 pesos per day (approximately \$1.62 to \$2). Older packers earn between 250 and 300 pesos per day (approximately \$10 to \$12).<sup>29</sup> One eight year-old told the authors that over a hundred boys his age have left school to become packers.

## **III. LAWS OF THE PHILIPPINES**

### *A. NATIONAL CHILD LABOR LAWS*

In the Philippines, the minimum age for general employment is 15 years. Under the Child Protection Act of 1992 and the Republic Act No. 7610, however, children under 15 may be employed, provided that: the employer secures a work permit from the Department of Labor and Employment; the protection, health, and safety and morals of the children can be ensured; measures to prevent exploitation or discrimination in remuneration and work schedules are instituted; and a continuous program for training and skill acquisitions of the child is formulated and implemented.<sup>30</sup> The Republic Act No. 7658 amended section Article VIII, section 12, of Act No. 7610 by prohibiting children below 15 years of age from employment except when they work in a family-run company or when their participation in public entertainment is "essential".<sup>31</sup> Moreover, under the Child and

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<sup>24</sup> "Child Labor - The Philippine Case," *Philippine Journal of Industrial Relations*, vol. VIII, no. 1 (1986) 14.

<sup>25</sup> *Id.*

<sup>26</sup> *U.S. Merchandise Trade: Exports and General Imports by Country* (Washington, D.C.: U.S. Department of Commerce, 1993) A-341, A-344.

<sup>27</sup> Levita Duhaylongsod and David Hyndman, "Where all that glitters is not gold: Crossroads of Mining Exploitation in the T'boli homeland," *Bulletin of Concerned Asian Scholars*, vol. 4, no. 3 (1992) 8 and 12-15.

<sup>28</sup> *Id.* at 8.

<sup>29</sup> *Id.*

<sup>30</sup> *Official Gazette* (of the Senate and the House of Representatives of the Philippines), vol. 88, no. 80 (July 27, 1992) 4589.

<sup>31</sup> "Philippine Congress Passes Child Labor Law," *The Reuter Library Report*, November 9, 1993. Republic of the Philippines, Congress of the Philippines, Metro Manila, Second Regular Session (July 26, 1993).

Youth Welfare Code, employers are required to submit periodic reports and maintain a register on child employees.

The Bureau of Women and Young Workers is charged with enforcing child labor laws.<sup>32</sup> This Bureau coordinates and collaborates with non-governmental organizations and other governmental agencies, but has no inspectors. It depends on inspectors from the Labor Standards Division and the Welfare Division, but with only 197 labor inspectors, the monitoring of child labor laws remains an enormous challenge.

## *B. EDUCATION LAWS*

The Philippines has free public education through grade 6 (or age 12), but only about 60 percent of school-aged children actually attend.<sup>33</sup> Parents have difficulty accommodating the cost of sending their children to school, including food and transportation allowances. Many of these children from poor families eventually drop-out.<sup>34</sup>

## *C. INTERNATIONAL CONVENTIONS*

The Philippines is a party to the U.N. Convention on the Rights of the Child and ILO Convention No. 59 Concerning Minimum Age for Admission to Employment in Industry. The Philippines has not ratified ILO Convention No. 138 Concerning Minimum Age for Admission to Employment.<sup>35</sup>

# **IV. PROGRAMS AND EFFORTS TO ADDRESS CHILD LABOR**

On June 22, 1994, the Government of the Philippines signed a Memorandum of Understanding (MOU) with the International Labor Organization's International Program for the Elimination of Child Labor (IPEC) to develop national programs and plans of action for the eradication of child labor.<sup>36</sup>

The United Nations Children's Fund (UNICEF) began supporting a Philippine action program for child workers - "The Breaking Ground for Community Action on Child Labor" in July 1988,<sup>37</sup> aimed at abolishing exploitative child labor and protecting working children. The UNICEF-assisted Community Action on Child Labor combines research, advocacy, and other action programs to combat child labor in 11 regions.<sup>38</sup>

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<sup>32</sup> G. Suvarchala, "Legislation to Combat Child Labor: an International Perspective," *Industrial Relations Journal* (Spring 1992) 150.

<sup>33</sup> *Country Reports* at 722.

<sup>34</sup> Simbulan at 33.

<sup>35</sup> *Lists of Ratifications by Convention and by Country (as at December 1992)* (Geneva: International Labor Organization, 1993).

<sup>36</sup> *ILO Press Release* (Geneva, June 22, 1994) [on file].

<sup>37</sup> Child Labor Project Management team at DOLE, brochure, *Breaking Ground for Community Action on Child Labor* [n.d.] [on file].

<sup>38</sup> *Addressing Child Labor Problems*, Position Paper of the Department of Labor and Employment, Republic of the Philippines, 1994 [unpublished manuscript on file] 5.

Numerous non-governmental organizations in the Philippines are active in addressing child labor problems in the country. For example, the Kamalayan Development Center receives information about exploited children and, with the assistance of the Department of Labor and Employment, has conducted raids on factories using child labor. The Asian Social Institute in Manila runs a shelter for street children. The Catholic Child Bureau runs a counseling center for street children, and has a special Child Rights Center. The Child Rights Center of the Commission on Human Rights investigates abuses against children and initiates appropriate legal action on their behalf. The Trade Union Congress of the Philippines' Youth Department has an initiative called "Project Joel: Addressing the Filipino Child Labor Problem," which documents child labor, public information, advocacy, and training activities. The Salinlahi Foundation coordinates child welfare programs including a research and data bank, education, training, and undertakes national campaigns.

There has been increased attention to the exploitation of child labor in the Philippine news media of late. As national and international concern for the welfare of working children mounts, there is a corresponding increase in the amount of non-governmental organization (NGO) and governmental activity aimed at the protection of children. It is reported that in the past year, representatives of business, government and NGOs have begun to work together more productively toward a collective effort to combat child labor.



## I. OVERVIEW

Estimates of the number of children working in Portugal range from 200,000, as cited by nongovernmental organizations,<sup>1</sup> to 30,000, as reported by the Portuguese government.<sup>2</sup> The footwear, garment, ceramics, and granite paving stone industries have been documented to use child labor. Each of these industries, in varying quantities, exports to the United States.<sup>3</sup>

## II. CHILD LABOR IN EXPORT INDUSTRIES

A 1991 report by Anti-Slavery International (ASI) documents child labor in the shoe and garment industries and, to a lesser extent, in the ceramics and stone-breaking industries, all of which are export-oriented and concentrated in the northern districts of Oporto and Braga.<sup>4</sup> A 1993 government briefing paper reported that of businesses found to employ children under the legal minimum age of 16, roughly 62 percent were either in the clothing, textiles and knitwear industry or in shoe manufacturing.<sup>5</sup> Each of these industries export to both the United States and Europe.

Rising public concern and increasing labor inspections have driven most of the child labor out of the legally organized factories and into "clandestine", or illegal, garage workshops and home production where abuses of the law are much harder to detect.<sup>6</sup>

While the government disputes some of the statistics cited in the ASI report,<sup>7</sup> it acknowledges that abuses exist and has taken action to curb them.<sup>8</sup>

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<sup>1</sup> Suzanne Williams, *Child Workers in Portugal*, No. 12 in the Child Labor Series (London: Anti-Slavery International, 1992) 12 [hereinafter *Child Workers in Portugal*].

<sup>2</sup> "Child Labor Falling," *Publico*, May 1994 [hereinafter *Publico* article].

<sup>3</sup> *United States Merchandise Trade: Exports and General Imports by Country* (Washington D.C.: U.S. Department of Commerce, 1993) A-348 - A-351 [hereinafter *U.S. Merchandise Trade*].

<sup>4</sup> *Child Workers in Portugal* at 26.

<sup>5</sup> "Briefing Paper on Child Labor," prepared by a working group on child labor established by the Portuguese Ministry of Foreign Affairs (1993) 2 [hereinafter Briefing Paper].

<sup>6</sup> Interview with Americo Monteiro, former coordinator of the Confederation for Action on Child Labor (CNAsti), by Department of Labor official (May 19, 1994) [hereinafter Interview with Monteiro].

<sup>7</sup> "...'mythical and fantasied' numbers of 200,000, that are persistently referred to by the 'media' of other countries." Briefing Paper at 15.

<sup>8</sup> *Country Reports on Human Rights Practices for 1993* (U.S. Department of State, February, 1994) 873 [hereinafter *Country Reports*].

## GARMENTS

In 1993, Portugal exported \$61.5 million in garments to the United States.<sup>9</sup> Finishing work, such as cutting button holes and sewing, is often subcontracted out from the larger factories. The textile union confirmed that in garment production, children under the age of 14 work mostly in clandestine shops and in their families' homes. A union representative said that when children are found in a factory they are paid 10 percent of an adult's wages; the piece-rate for work at home was described as "miserably low."<sup>10</sup> Anti-Slavery International profiled two child garment workers:

*Sonia and Sandra are both 11 years old, and make dressing-gowns in the same small garment factory in the town of Sao Joao de Ver, in the district of Aveiro. The factory is in the basement of a house and, of the five workers, the oldest is 25. Sonia has dropped out of school with only two years of schooling. Sandra has had five years of school. Each of the girls earn £32 [\$52] a month for a nine-and-a-half-hour day.*<sup>11</sup>

## FOOTWEAR

As with garments, child labor appears mostly in small shops and in home production. The system of rural delivery of cut pieces for finishing into casual shoes for eventual sale by foreign retailers is well documented, in one case showing children as young as 10 and 11 years stitching shoes.<sup>12</sup> Children hand sew pre-punched, machine-cut pieces of leather together, cut leather, and glue shoe pieces together. Anti-Slavery International profiled one young shoe worker:

*Francisco [age 12] works in a small shoe factory..which employs 15 workers. He cuts and separates the leather, working from 8:00 a.m. to 6:30 p.m. with an hour for lunch- a nine-and-a-half-hour day- for which he earns £80 [\$114] a month.*<sup>13</sup>

The United States imported \$65 million in footwear from Portugal in 1992.<sup>14</sup> Child labor in the shoe industry merits further investigation.

## CERAMICS

Children are used in the production of brick-red table and oven pottery, fine china, and pottery ornaments in the ceramics industry located in the municipality of Barcelos. Children carry and work the clay in addition to

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<sup>9</sup> U.S. Department of Commerce, International Trade Administration, Office of Textile and Apparel, *Major Shippers: Textiles and Apparel* (June 11,1994).

<sup>10</sup> Interview with Jose Fernando Teixeira Silva, Member of the National Board, Textile Federation, by U.S. Department of Labor official (May 18,1994) [hereinafter Interview with Silva]; European television documentaries [on file].

<sup>11</sup> *Child Workers in Portugal* at 34.

<sup>12</sup> *See Child Workers in Portugal*; European television documentaries (ITV, *Storyline*, February 4, 1993) [on file].

<sup>13</sup> *Child Workers in Portugal* at 31.

<sup>14</sup> *U.S. Merchandise Trade*.

painting designs on the pottery.<sup>15</sup> Several reports found that children in the ceramics industry often work only during school vacations or attend school for half the day and then work the other half in small workshops. Most ceramics production is exported to Europe, although over \$37 million in ceramic products was exported to the United States in 1993.<sup>16</sup>

## STONE-BREAKING

The granite industry in the north of Portugal "exploits cheap sub-contracted labour, and the labour of children."<sup>17</sup> Young boys were found to work with family members breaking cobblestones, coping-stones and paving stones to be used in road construction. They hammer at the stone with chisels and mallets, unprotected from the dust and granite chips. Typically, a man will rent a small shack for stone-breaking and his family will come to work with him, including his children. Exports are thought to go primarily to France and Spain, though there are reports of granite stones being exported to the United States for use in pavements.<sup>18</sup>

## III. LAWS OF PORTUGAL

### A. NATIONAL CHILD LABOR LAWS

The government raised the minimum age for employment to 15 years under Decree-law 396/91 of the "Judicial Labour Law", and it plans to raise it again to 16 years in 1997 when the period of nine years of compulsory schooling takes effect.<sup>19</sup> Currently, light work, which is not yet defined under Portuguese law, is permitted by children 14 and older. Hazardous work, also not yet defined, is prohibited for anyone under 18.<sup>20</sup>

Revised in October 1991, Portugal's labor laws include more severe fines and sanctions for companies which violate them. To illustrate its work to combat child labor, the government also points to its programs to increase the effectiveness of its labor inspectors.

However, government efforts are still hampered by a lack of inspectors and the dispersed locations of clandestine and home production--private property which requires a search warrant to enter. The U.S. State Department's *Country Reports on Human Rights Practices for 1993* states that, "(t)he Government has yet to allocate resources sufficient to cope with the problem [of enforcing child labor laws in clandestine companies and home-based production]...which has thus remained essentially unresolved."<sup>21</sup>

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<sup>15</sup> *Child Workers in Portugal* at 32.

<sup>16</sup> *U.S. Merchandise Trade*.

<sup>17</sup> *Child Workers in Portugal* at 36.

<sup>18</sup> *Child Workers in Portugal* at 36-38; Interview with Monteiro; Interview with Alfredo Cardoso, Cultural Assistant, Town of Braga, and former member of the Confederation for Action on Child Labor (CNAsti), by U.S. Department of Labor official (May 19, 1994) [hereinafter Interview with Cardoso]; Telephone interview with Suzanne Williams, author of *Child Workers in Portugal* by Department of Labor official (May 13, 1994).

<sup>19</sup> *Country Reports* at 1009.

<sup>20</sup> Unofficial translation of report from Portuguese Ministry of Labor and Social Security.

<sup>21</sup> *Country Reports* at 1009.

Unions, meanwhile, complain that labor inspectors have been known to "tip-off" factories that an inspection is due and that the inspectors are incapable of addressing what they assert is a growing phenomenon of child labor in home-based subcontracting. A government briefing paper on child labor appears to justify union concern: "Scenes of 'tilemaking' (stone breaking for pavements) and of domiciliary work (sewing...shoes) have been amply publicized. These situations are basically not considered as being 'subordinated work' as it mainly occurs within the family, thus evading the [labor inspector's] control."<sup>22</sup>

The Deputy Chief of the government's labor inspectors categorically asserted that the problem of child labor is not increasing. He also asserted that the changes in the ages both of school attendance and the minimum for work would result in significantly lower child labor in the future.<sup>23</sup> While the unions agree that child labor has been falling recently, they attribute the decline to the closing of factories and the rise of unemployment.<sup>24</sup>

## *B. EDUCATION LAWS*

Education is compulsory for children up to age 14.<sup>25</sup> Article 74 of the Constitution states that, "(e)veryone shall have the right to equal opportunities for access to and success in schooling....In the implementation of its educational policy, it shall be the duty of the State to ensure compulsory and free universal basic education."<sup>26</sup> The Government of Portugal is currently making education a priority and plans to increase compulsory schooling to nine years. The portion of the government's budget going to education has risen significantly.<sup>27</sup>

The government claims to have reduced by 35 percent the number of children who dropped out of school between 1991 and 1993.<sup>28</sup>

## *C. INTERNATIONAL CONVENTIONS*

Portugal has ratified the United Nations Convention on the Rights of the Child. Portugal is not a party to ILO Convention No. 138 Concerning Minimum Age for Admission to Employment or ILO Convention No. 59 on

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<sup>22</sup> Briefing Paper at 3.

<sup>23</sup> Interview with Dr. Jose Manuel Garcia Cristo, Deputy Inspector, General Labor Inspectorate, by Department of Labor official (May 17, 1994).

<sup>24</sup> *Publico* article.

<sup>25</sup> *Conditions of Work Digest*, vol. 10, no. 1 (Geneva: International Labor Organization, 1991) 44.

<sup>26</sup> *Constitution of the Portuguese Republic*, 2nd Revision, 1989 (Lisbon: Directorate General for Mass Communication, 1991) 51.

<sup>27</sup> "Portugal May Have Crucial Lessons To Learn," *Financial Times* (England), March 18, 1992.

<sup>28</sup> *Publico* article.

#### IV. PROGRAMS AND EFFORTS TO ADDRESS CHILD LABOR

The Government of Portugal is particularly sensitive to the international publicity the country has received as a result of the 1991 report by Anti-Slavery International and several international television news programs which have focused on children sewing shoes for export to Europe.<sup>31</sup>

Both the government and the major national unions have launched several programs to increase public awareness. Most of the programs are aimed particularly at parents and teachers. While some people complained of a lack of substance in the programs, a Portuguese member of the UN Committee on the Rights of the Child stressed the importance of changing the old attitudes among parents, teachers and the Church of acceptance of child labor--and she noted a positive trend in this direction.<sup>32</sup>

A promising program being developed in a small town in the industrialized North involves a coalition of private social welfare groups, church based social action organizations, local and national unions, local municipal and school officials, and regional and national governmental authorities. The plan is to use all available resources to address the problems of children working and children at risk of dropping out of school, one child at a time. The program may be replicated in other towns in the region.<sup>33</sup>

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<sup>29</sup> *List of Ratifications by Convention and by Country (as at 31 December 1992)* (Geneva: International Labour Office, 1993).

<sup>30</sup> Interview with Dra. Marta Santos Pais, Member, United Nations Committee on the Rights of the Child, by Department of Labor official (May 20, 1994) [hereinafter Interview with Pais].

<sup>31</sup> *Child Workers in Portugal*; European television documentaries [on file].

<sup>32</sup> Interview with Pais.

<sup>33</sup> Interview with Monteiro; Interview with Cardoso.

## I. OVERVIEW

A 1988 census found that among 10 to 14 year olds in Tanzania, 13.2 percent work.<sup>1</sup> Child labor is used in the export-oriented industries of gemstone mining, cotton ginneries, and sisal processing.

## II. CHILD LABOR IN EXPORT INDUSTRIES

*Child Labor in Tanzania*, a 1992 report by the International Labor Organization which documents the use of child labor in variety of sectors, is the most authoritative source of information on child labor in Tanzania.

### SISAL PLANTATIONS

Sisal is one of Tanzania's leading exports.<sup>2</sup> For at least the last quarter century, large numbers of children have worked on Tanzania's sisal plantations. A survey of Ubenia Sisal Estates in the Coastal Region revealed that 30 percent of the workers were children. Child workers age 12 to 14 perform various labor-intensive activities including cultivation, transplanting, weeding, carrying wet fibers from machines, and collecting fibers ejected from the brushing machines.<sup>3</sup>

The last two activities involve the processing of the sisal. The United States imported over \$2 million in twine, cord, rope and cable made of sisal binders and fibers in 1993.<sup>4</sup>

Children commonly assist their parents in the fields from a very young age and are later employed independently in their own right. Children on the sisal plantations work up to 11 hours a day with no specified rest periods, six days a week. They receive half the adult wage and often lack adequate nourishment and lodging. Only half of the child workers surveyed completed primary school. They had a high incidence of skin and respiratory problems. No protective clothing was provided for the workers.<sup>5</sup>

The ILO report concluded, "...there is a consensus among many groups, ranging from the Association of Tanzanian Employers to the Women's Program of JUWATA, that severe problems do exist relating to child labor on plantations in general."<sup>6</sup> Some of the worst forms of child labor in Tanzania were found on these

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<sup>1</sup> Out of the total population of 10 to 14 year olds in Tanzania (2,984,228), 395,372 worked. The number of working children was almost equally divided between males and females. *Child Labor in Tanzania* (Geneva: International Labor Organization, 1992) 8 [hereinafter *Child Labor in Tanzania*].

<sup>2</sup> *The World Fact Book 1993* ( Central Intelligence Agency, 1993) 378 [hereinafter *The World Fact Book*].

<sup>3</sup> *Child Labor in Tanzania* at 13.

<sup>4</sup> U.S. Department of Commerce, Bureau of the Census, *Merchandise Trade - Imports by Commodity* (June 1994).

<sup>5</sup> *Child Labor in Tanzania* at 13.

<sup>6</sup> *Id.* at 14.

plantations where children are exposed to chemicals, machinery, long working hours, and hard physical work.<sup>7</sup> There are also dated reports of children working under conditions of bonded labor on commercial plantations.<sup>8</sup>

## GEMSTONE MINING

The American Embassy in Dar-es-Salaam reported that child labor is "likely" in the gemstone industry in Tanzania.<sup>9</sup> Tanzania exports cut and uncut gemstones to the United States. Further investigation is needed.

## COTTON GINNERIES

Cotton is one of Tanzania's leading exports.<sup>10</sup> Children reportedly work in cotton ginneries where they often sit in cramped positions for 11 to 12 hours feeding the machines.<sup>11</sup> The United States imports small amounts of cotton in the form of yarn and woven fabric,<sup>12</sup> but it is unclear whether the cotton ginneries using child labor are involved in export production.

## III. LAWS OF TANZANIA

### A. NATIONAL CHILD LABOR LAWS

Employment Ordinance No. 47 of 1955 sets the basic minimum age for employment at 12 years of age and requires that 12 to 14 year old child workers receive a daily wage, work on a day-to-day basis, are provided transportation home each evening, and obtain permission to work from their parents. Children are forbidden from working in any occupations which are dangerous or injurious to their health as well as in many industrial occupations.<sup>13</sup> Given the low basic minimum age of 12 and the numerous loopholes for industrial work, Tanzania's child labor laws fall short of international standards.

The Ministry of Labor and Youth Development is charged with enforcing child labor laws in Tanzania. Due to a shortage of funds, labor inspectors are not able to operate effectively.<sup>14</sup> Enforcement of child labor provisions is further impaired by the many grey areas and loopholes found in the legislation and a prevailing cultural acceptance of child labor.<sup>15</sup>

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<sup>7</sup> *Id.* at 5.

<sup>8</sup> *Id.* at 13.

<sup>9</sup> American Embassy-Dar es Salaam unclassified telegram no. 006537, November 23, 1993.

<sup>10</sup> *The World Fact Book* at 378.

<sup>11</sup> *Id.* at 12.

<sup>12</sup> U.S Department of Commerce, Bureau of Census, *Merchandise Trade - Imports by Commodity* (June 1994).

<sup>13</sup> *Child Labor in Tanzania* at 21.

<sup>14</sup> *Id.* at 21.

<sup>15</sup> *Id.* at 22.

## B. EDUCATION LAWS

The Universal Primary Education policy of 1974 mandates compulsory education for children between the ages of 7 and 13.<sup>16</sup> The Primary School Compulsory Education and Enrollment Rules provide penalties for parents and children who fail to comply.<sup>17</sup> Despite these stringent laws, there has been a marked decrease in the number of children enrolled in primary school since the mid-1980s due to lax enforcement, reduced spending on education, and society's growing lack of faith in the educational system as a means for occupational preparation.<sup>18</sup>

## C. INTERNATIONAL CONVENTIONS

The Government of Tanzania recently ratified the U.N. Convention on the Rights of the Child.<sup>19</sup> Tanzania has ratified ILO Convention No. 59 Concerning Minimum Age for Admission to Employment in Industry but has not yet ratified ILO Convention No. 138 Concerning Minimum Age for Admission to Employment.<sup>20</sup>

## IV. PROGRAMS AND EFFORTS TO ADDRESS CHILD LABOR

The Government of Tanzania has yet to put into effect a comprehensive national policy to protect working children and to remove child laborers from dangerous occupations. Existing programs address only limited aspects of child labor but lack adequate funding. However, the Government of Tanzania has recently signed a Memorandum of Understanding with the ILO to launch a national action program under the International Programme for the Elimination of Child Labor (IPEC).<sup>21</sup>

To date, non-governmental organizations (NGOs) in Tanzania have done relatively little on child labor issues. However, the Tanzania Welfare Counselling Mission (TAWECOMI) has initiated a counselling program for street children; the Family Planning Association of Tanzania (UMATI) has established counselling and training

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<sup>16</sup> *Id.* at 14.

<sup>17</sup> *Id.* at 14-15.

<sup>18</sup> The Basic Education Statistics Tanzania (BEST) which chart enrollment in primary schools from 1961-1989 show a steady increase in enrollment between 1969 (486,470) and 1983 (3,553,144) and then a steady drop in enrollment between 1983 and 1989 (3,252,934). *Child Labor in Tanzania* at 29-31.

<sup>19</sup> *Country Reports on Human Rights Practices for 1993* (U.S. Department of State, February, 1994) 297.

<sup>20</sup> *List of Ratifications by Convention and by Country (as at 31 December 1992)* (Geneva: International Labor Organization, 1993).

<sup>21</sup> *IPEC: Reflections on the Past, Pointers to the Future* (Geneva: International Labor Organization, 1994) 22.



centers to help pregnant school drop-outs; and Sauti wa Siti, a women's organization, has sponsored a program to provide vocational training and sought to document child labor.<sup>22</sup>

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<sup>22</sup> *Child Labor in Tanzania* at 22-23.

## I. OVERVIEW

Estimates on the number of child workers in Thailand vary greatly. The International Labor Organization puts the number at four million, with 600,000 between the ages of 13 and 14.<sup>1</sup> Non-governmental organizations put the number higher. Bangkok's Human Resources Institute maintains that at least five million Thai children, some as young as seven years of age, work.<sup>2</sup>

There are no reliable statistics on child labor in export industries in Thailand. The U.S. State Department's *Country Reports on Human Rights Practices for 1993* observes, "there are no export industries in which child labor is significant."<sup>3</sup> However, literature reviews and site visits suggest that child labor does indeed exist in the export industries, including garments, gems, leather bags, shrimp and seafood processing, and wood and rattan furniture.

## II. CHILD LABOR IN EXPORT INDUSTRIES

Children produce goods for both the domestic and export markets, usually in subcontracted enterprises rather than in large factories. One source maintains that there are at least 5,000 unregulated "sweatshop" factories in Thailand.<sup>4</sup> Sanphasit Koomprahant, a noted child labor activist, estimates that up to 1.4 million children work in Bangkok's underground manufacturing economy, mostly in the unlicensed manufacturing sector.<sup>5</sup> According to Koomprahant, many of these factories are illegal and lock their doors to outsiders.<sup>6</sup>

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<sup>1</sup> *Report of the Committee of Experts on the Application of Conventions and Recommendations: General Report and Observations Concerning Particular Countries* (Geneva: International Labor Organization, 81st session, 1994) 135 [hereinafter *1994 Report of the Committee of Experts*]. UNICEF reports that a 1986 government survey on the labor force found that 1.05 million children aged 11 to 14 years were employed, out of which 124,000 were between 11 and 12 years old. "Thai Children at Work," *The Situation Analysis for Women and Children* (New York: UNICEF, 1989) 27 [on file].

<sup>2</sup> Robin Wright, "World View: The Littlest Victims of Global Progress," *Los Angeles Times*, January 11, 1994, 1 [hereinafter Wright]. The 1993 ICFTU-APRO report estimated that there are five million working children in Thailand. *ICFTU-APRO Sub-Regional Seminars on Child Labor* (International Confederation of Free Trade Unions - Asian and Pacific Regional Organization, October 1993) Table 1.

<sup>3</sup> *Country Reports on Human Rights Practices for 1993* (U.S. Department of State: February 1994) 749 [hereinafter *Country Reports*].

<sup>4</sup> Judith Ennew and Brian Milne, *The Next Generation* (Philadelphia: New Society Publishers, 1990) 174 [hereinafter Ennew and Milne].

<sup>5</sup> "Little Hands Grasp for Prosperity," *Child Workers in Asia*, vol. 9, no. 3 (July-September 1993) 26.

<sup>6</sup> "Interview with Sanpasit Khumprapan," *Child Workers in Asia*, vol. 8, no. 4, vol. 9, no. 1, (October-December 1992 and January-March 1993) 9.

The Royal Thai Embassy, in written testimony to the U.S. Department of Labor, observed that many child workers have entered the labor market due to the rapid expansion of business and industries. The Government states:

*Job opportunities have opened up for child labor for relatively simpler type of work suitable for children's hands and eyesight. Compared to adults, children are obedient and work eagerly. Most establishments employing child labor are small-sized with not more than 20 employees . . . For lack of jobs in their home provinces, child job seekers have moved from rural areas to Bangkok and nearby provinces. That is why they are cheated and exploited.*<sup>7</sup>

So-called "employment agencies" or "headhunters" frequently act as middlemen between poor parents and factory owners in Bangkok. These middlemen offer cash up-front to the parents and promise job opportunities for the children.

## GARMENTS

In 1993, Thailand exported over \$800 million worth of garments to the United States.<sup>8</sup> There are widespread reports of children working in the garment industry of Thailand, but no comprehensive studies documenting the nature and extent of their involvement. Although there is probably little child labor in the large garment factories, there is reportedly significant child labor employed by smaller unregulated subcontractors.

According to an article in the *Vancouver Sun*, many children find sweatshop work in the garment industry, working long hours seven days a week for pitifully low wages.<sup>9</sup> A 1987 Cox newspaper article reported that the highest paid child worker found by Cox reporters, who conducted a survey of child workers, was a 14 year-old in Bangkok running a sewing machine at a skirt factory for 15 hours a day seven days a week, earning approximately \$70 per month at piece work rates.<sup>10</sup>

According to *Child Workers in Asia*, child labor is especially common in small garment enterprises in the Pratunam district in Bangkok.<sup>11</sup> According to another non-governmental organization, the Foundation for Child Development, children, mostly girls, work 12-hour days in shops where they earn as little as 5 cents for sewing 100 buttons.<sup>12</sup>

## GEMS

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<sup>7</sup> *International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994) (Statement of the Royal Embassy of Thailand) [hereinafter Testimony of Thai Embassy].

<sup>8</sup> Search of *Piers Imports Database*, Journal of Commerce, 1994. See also U.S. Department of Commerce, International Trade Administration, Office of Textile and Apparel, *Major Shippers Report* (June 11, 1994).

<sup>9</sup> "Child Labor," *The Vancouver Sun*, July 13, 1992, A12.

<sup>10</sup> Joseph Albright and Marcia Kunstel, "Stolen Childhood: Global Report on the Exploitation of Children," in *Cox Newspapers* (June 21-26, 1987) 12 [hereinafter Albright and Kunstel].

<sup>11</sup> "Little Hands Grasp for Prosperity," *International Herald Tribune*, July 27, 1993, reprinted in *Child Workers in Asia*, vol. 9, no. 3 (July-September 1993) 26.

<sup>12</sup> Wright at 1.

In 1992 Thailand exported \$170 million worth of gems to the United States.<sup>13</sup> In Thailand's gem industry, children work both in "modern" factories in urban centers and in smaller villages in subcontracting arrangements. In villages in the Khon Khaen area, a U.S. Department of Labor official observed about eight children working, with one saying she was 13 years old.<sup>14</sup> These children work 12 hours per day, six days a week, polishing gems, and reportedly receive about \$2 per day. In recent years, the gem polishing industry of Khon Khaen has declined, as operations have reportedly moved to China where wages are even cheaper.<sup>15</sup>

In Bangkok, Chaing Mai, and other urban centers, thousands of children are recruited from northeastern Thailand to polish gems in factories called "shop houses". After training, children allegedly receive 30 to 40 baht per week (approximately \$1.36 to \$1.81), including lunch.<sup>16</sup>

During a visit a Chaing Mai gem shop on May 8, 1994, a U.S. Department of Labor official was told that young teenagers do not receive compensation during their training period. The jewelry showroom guide told the official that employees were hired at 13 years of age and then trained for one to two months.

## LEATHER BAGS

Thailand also exports leather hand bags to the United States.<sup>17</sup> In 1992, Child Workers in Asia (CWA) reported that children in the leather bag industry work under poor and cramped conditions.<sup>18</sup> They work from 8 a.m. until 11 p.m. with no overtime, are given only one one-hour break per day, and earn about 500 baht or \$20 per month.<sup>19</sup> CWA claimed children face major hazards in the industry working with glue and other solvents as well allergic reactions from handling leather. One child reported that children are given amphetamines to keep up their strength. CWA also alleged that a Bangkok leather company, well-known winner of four "Exporter of the Year" awards since 1987, employed more than 200 children to produce 50,000 leather bags a month. In this factory, children were paid \$1 a day for 13 hours of work and were given 2 days per month off.<sup>20</sup> Cox Newspapers reported that, in February 1987, one suburban Bangkok "shophouse" that made leather purses

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<sup>13</sup> *U.S. Merchandise Trade: Exports and General Imports by Country* (Washington, D.C.: U.S. Department of Commerce, 1993) A-417.

<sup>14</sup> Visit by Department of Labor official to Khon Khaen, May 8, 1994.

<sup>15</sup> During a visit to the gem polishing factories of the Khon Khaen area on May 8, 1994, a Department of Labor official was informed that there was a significant local industry in polishing cubic zirconia - a diamond replacement. Much of this industry now has reportedly moved to China. The Labor official found three types of work situations in the gem industry: (1) a large factory which used to employ several hundred polishers, but is no longer operating; (2) a "neighborhood" factory, which includes small sheds, employing children; and (3) subcontracted work to families, where children also polish gems.

<sup>16</sup> Visit by Department of Labor official to Chiang Mai on May 8, 1994.

<sup>17</sup> Search of *Piers Imports Database*, Journal of Commerce 1994 (June 1994).

<sup>18</sup> "Rights of Child Workers," *Child Workers in Asia*, vol. 8, no. 1/2 (January-June 1992) 8-9.

<sup>19</sup> "Child Labor Through Their Eyes," *Worker Rights News*, International Labor Rights and Education Fund (Summer 1992) 3.

<sup>20</sup> David Todd, "Thais Shocked By Story of Worker-Prisoners," *The Vancouver Sun*, July 6, 1992, A8.

caught fire, killing 19 people including 3 children.<sup>21</sup> The workers died in the factory because they were trapped behind locked doors.

## **SHRIMP AND SEAFOOD PROCESSING**

In 1992, the United States imported nearly \$1 billion worth of fish and crustaceans from Thailand, shipped primarily from the Samut Sakhon area.<sup>22</sup> Professor George Kent, from the University of Hawaii, personally observed children working in shrimp peeling sheds and on board fishing vessels in Thailand.<sup>23</sup> The children reportedly peel, clean, and sort the fish. Employers allegedly work through "headhunters" who offer loans to parents for their children.<sup>24</sup> The children work off the parents' debts in the factories, where they reportedly are locked inside and sometimes beaten. These children are thus made officially "invisible" through the subcontracting arrangements between their parents and the employers. Some children are heard to have returned home with missing fingers and diseased skin.

## **RATTAN AND WOOD FURNITURE**

Child labor also exists in the Thai furniture industry, especially in the rattan factories. The United States imports rattan, wicker, straw, cane, palm and buri furniture from Thailand.<sup>25</sup> In 1987, Cox Newspaper reporters found a 13 year-old boy in a furniture factory making rattan furniture who earned \$16 per month for working 85-hour weeks.<sup>26</sup>

Children also work in Thailand's wood furniture industry.<sup>27</sup> The 1986 National Youth Bureau study found a 13 year-old in a furniture factory next to the Mandarin Hotel in Bangkok, as well as children assembling wood furniture. More research is needed on this industry.

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<sup>21</sup> Albright and Kunstel at 11.

<sup>22</sup> *U.S. Merchandise: Exports and General Imports by Country* (Washington, D.C.: U.S. Department of Commerce, 1993) A-415. Search of *Piers Imports database*, Journal of Commerce 1994 (June 1994).

<sup>23</sup> Letter from Professor George Kent to the International Child Labor Study (February 28, 1994).

<sup>24</sup> One source maintained that a family received 5,000-6,000 baht.

<sup>25</sup> Search of *Piers Imports Database*, Journal of Commerce 1994.

<sup>26</sup> Albright and Kunstel at 12.

<sup>27</sup> An official of the U.S. Department of Labor visited wood furniture factories in the Chiang Mai area on May 8, 1994 where a showroom guide stated that employees were hired when they were 13 years old.

### III. LAWS OF THAILAND

#### A. NATIONAL CHILD LABOR LAWS

The legal minimum working age in Thailand is 13. Children between the ages of 13 and 15 are permitted to perform "light work".<sup>28</sup> Employment of children at night between the hours of 10 p.m. and 6 a.m. is prohibited. The Thai government announced plans to increase the minimum age for employment to 14 years by 1996 and to 15 years by 2001.<sup>29</sup>

The Ministry of Labor and Social Welfare has proposed to decrease the number of legal working hours for child workers ages 13 to 15 in industrial and commercial work to six hours per day, or 36 hours per week, and increase the penalty for employer violation to a maximum 12 months imprisonment and 200,000 baht fine (approximately \$9,000).<sup>30</sup>

According to the Royal Thai Embassy, the Thai Department of Labor Protection and Welfare inspected 31,282 enterprises between October 1, 1992 and February 28, 1994.<sup>31</sup> As a result, 126 employers were prosecuted for unfair practices and exploitation of child labor, and 3 employers were imprisoned. Total fines amounted to 808,600 bahts (approximately \$36,522).<sup>32</sup> According to the Embassy, 231 child workers received a total of 607,494 bahts (approximately \$27,438) in wages owed.

Vitit Muntarbhorn, an expert on child labor, observed that although governmental policy designed to help children is "clear enough," implementation of the laws is weak.<sup>33</sup> Muntarbhorn explains that poor enforcement of child labor laws is due in part to "the pervasive underworld which profiteers from the trade and which colludes with law enforcement personnel."<sup>34</sup> The ILO, in its Report of the Committee of Experts, confirmed that there is a need to counter police corruption.<sup>35</sup>

In Thailand, the labor inspectorate suffers from understaffing and corruption.<sup>36</sup> For example, in one industrial area, the ILO Direct Contacts Mission was informed that there were only 10 inspectors for 6,000 to 7,000

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<sup>28</sup> *Country Reports* at 748.

<sup>29</sup> *Id.*

<sup>30</sup> Testimony of the Thai Embassy. *See also* Statement of the Government of Thailand to the GSP Subcommittee of the Trade Policy Staff Committee (November 10, 1993) 20 [on file]. *See also* American Embassy-Bangkok unclassified letter, July 7, 1994 [on file].

<sup>31</sup> Testimony of the Thai Embassy.

<sup>32</sup> *Id.* Repeated requests by a U.S. Department of Labor official to the Thai Department of Labor Protection and Welfare for the list of the 126 employers who were reportedly prosecuted went unanswered. In addition, in a discussion with the Department of Labor official, the Thai Ministry said that none of the 126 employers were prosecuted for hiring underage child labor.

<sup>33</sup> Vitit Muntarbhorn, *Law and State: Human Rights Challenge in Thailand* (Oxford: Oxford University, 1993) 24-25.

<sup>34</sup> *Id.*

<sup>35</sup> *1994 Report of the Committee of Experts* at 140.

<sup>36</sup> *Id.* at 136-137.

factories.<sup>37</sup> Enforcement is also difficult as factories employ children well beyond normal hours and, under Thai criminal law, inspectors require a special warrant to enter factories during those hours. The problem is further exacerbated by the fact that factory doors are usually locked to outsiders. Moreover, work condition laws only cover factories employing at least 20 persons; small factories or subcontracting systems which often use child labor are excluded.<sup>38</sup>

## **B. EDUCATION LAWS**

UNICEF reports that Thailand has increased access to basic education.<sup>39</sup> The Royal Thai Embassy testified that about 800,000 children complete their compulsory education through Grade 6 every year.<sup>40</sup> Professor Myron Weiner of the Massachusetts Institute of Technology notes that virtually all children attend primary school in Thailand.<sup>41</sup> In addition, the government plans to increase compulsory education from six to nine years and has initiated a teacher training and school construction program in order to reach this goal.

Even though Thai law requires six years of education, many children reported do not spend that many years in the classroom due to financial pressures.<sup>42</sup> The drop-out rate ranges as high as 50 percent in some of Thailand's poorest regions. Only about 30 percent of eligible Thai children enter high school. UNICEF estimates that 15 percent of the students drop out before completing primary school, the majority of drop-outs being from ethnic minorities and the poor.<sup>43</sup>

## **C. INTERNATIONAL CONVENTIONS**

Thailand is a party to the U.N. Convention on the Rights of the Child. Thailand has not ratified ILO Convention No. 138 Concerning Minimum Age for Admission to Employment or ILO Convention No. 59 Concerning Minimum Age for Admission to Employment in Industry.<sup>44</sup>

# **IV. PROGRAMS AND EFFORTS TO ADDRESS CHILD LABOR**

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<sup>37</sup> *Id.* at 136.

<sup>38</sup> Interview with Chulalongkorn University Professor Vitit Muntarbhorn by Department of Labor official (May 1994).

<sup>39</sup> *Country Program Recommendation-Thailand* (Geneva: UNICEF, February 11, 1994) U.N. Doc. E/ICEF/1994/P/L.13, 1994 at 3.

<sup>40</sup> Testimony of Thai Embassy.

<sup>41</sup> *International Child Labor Hearing*, U.S. Department of Labor (April 12, 1994) (Statement of Professor Myron Weiner, Massachusetts Institute of Technology).

<sup>42</sup> "Little Hands Grasp Prosperity," *International Herald Tribune*, July 27, 1993, *reprinted in Child Workers in Asia*, vol. 9, no. 3 (July-September 1993) 26.

<sup>43</sup> *Country Program Recommendation-Thailand* (Geneva: UNICEF, February 11, 1994) U.N. Doc. E/ICEF/1994/P/L.13 (1994).

<sup>44</sup> *List of Ratifications by Convention and by Country (as at December 1992)* (Geneva: International Labor Organization, 1993).

The stated policy of the Thai government is to eliminate child labor by setting up a mass media campaign on child labor, registering child laborers, cooperating with hospitals to report cases of tortured child workers, establishing 36 sub-local offices of labor protection and welfare, increasing the number of labor inspectors, and organizing training courses for labor inspectors.<sup>45</sup> In addition, the Ministry of the Interior has instructed officials to take employers accused of violating child labor laws to the courts immediately without prior warning.<sup>46</sup> According to the Thai Embassy, the government has established operation centers in 76 provinces to address unfair labor practices against children, disseminate literature, and organize meetings.<sup>47</sup> The Administration Committee of the Thai Parliament has passed an amendment to the Penal Code which increases the penalties for acts which harm or endanger child laborers or cause their death. Penalties include a prison term of 15 to 20 years, life imprisonment, or capital punishment.<sup>48</sup>

In 1992, after signing a Memorandum of Understanding (MOU) with the Thai government, the International Labor Organization officially launched a national action program under the International Program for the Elimination of Child Labor (IPEC).<sup>49</sup> IPEC is working with the Department of Labor Protection and Welfare to improve collection and dissemination of information on child labor, aimed especially at small scale factories in Thonburi district of Bangkok. IPEC has also worked with various non-governmental agencies including Foundation for the Better Life of Children (children in construction), Esan Child Labor Project (children in garment production and gem cutting), Samuthprakarn Child Labor Project (children in leather factories), Friends of Children Group, and ATD Fourth World.<sup>50</sup>

UNICEF is addressing child labor under the program for Children in Especially Difficult Circumstances (CEDC) and will focus on child prostitution and economically exploited and abused children in Thailand.<sup>51</sup> This program will include advocacy and social mobilization, as well as training programs for government officials and non-governmental organizations to prevent and detect child prostitution. In addition, the Government of Thailand, UNICEF, and the International Labor Organization intend to work together to encourage parents to send their children to school.<sup>52</sup>

Some non-governmental organizations are also seeking to address the issue of child labor. Just recently, a Non-Governmental Organization Coordination Committee on Child Labor (NGO-COM) was established to increase

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<sup>45</sup> See Testimony of Thai Embassy for the list of measures.

<sup>46</sup> *Statement of the Government of Thailand to the GSP Subcommittee of the Trade Policy Staff Committee* (November 10, 1993) 20 [on file].

<sup>47</sup> See Testimony of Thai Embassy for detailed list on protection and prevention measures outlined by the government.

<sup>48</sup> *Id.*

<sup>49</sup> *ILO-IPEC Co-Operation Between The Government of Thailand and the ILO to Deal With the Problem of Child Labor* (unpublished manuscript, n.d.) [on file].

<sup>50</sup> *National Program, IPEC Thailand 1992-1993* (International Labor Organization, n.d.) [on file].

<sup>51</sup> *Country Program Recommendation-Thailand* (Geneva: UNICEF, February 11, 1994) U.N. Doc. E/ICEF/1994/P/L.13.

<sup>52</sup> *Id.*



co-operation, develop common strategies, and pressure the Thai government to enforce child labor laws.<sup>53</sup> Child Workers in Asia is an important focal point for exchanging information and sharing work experiences. As part of this work, the CWA produces a quarterly newsletter which compiles and publishes the latest information from a wide range of non-governmental organizations in Asia. The Child Labor Project (formerly known as the Center for Concern for Child Labor), has established a Foundation for Child Development to study child labor problems and organize various activities for working children, which include the child labor club, mobile libraries, vocational training, and medical examinations. The Foundation for Children's Rights, the Center for the Protection of Children's Rights, and the Foundation for Better Life of Children have also sponsored various programs including a model school, a child care and youth center, and a mid-day meal program. Other non-governmental organizations working on child labor include Friend of Children and Bangkok's Human Resources Institute.

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<sup>53</sup> *Child Workers in Asia*, vol. 9, no. 3 (July-September 1993) 6.

## I. OVERVIEW

Children are found working in Zimbabwe's export-oriented mining sector. No children are formally employed in mines, but children, working either for independent operators or through subcontractors, can be found mining chromium and gold. The United States imports chrome from Zimbabwe and, although there is no evidence of direct imports of gold, it is reported that gold from Zimbabwe is smuggled to the United States.

## II. CHILD LABOR IN EXPORT INDUSTRIES

The International Labor Organization's International Programme for the Elimination of Child Labor (IPEC) 1992 report, *Towards Action Against Child Labour in Zimbabwe*, is the most authoritative source of information on child labor in Zimbabwe. The ILO report asserts that a combination of factors have necessitated that child labor be viewed within a new framework:

*It is believed by some that child labour today is a natural extension of what children have always done in Zimbabwean society. Traditionally children looked after cattle, foraged for food, looked after younger children and worked in family fields. Children were socialized from an early age towards playing a productive role in society. While this has historical relevance, it is generally agreed that the current socio-economic situation in Zimbabwe has changed the context, demanding a re-evaluation of the positive and negative effects of children's work.<sup>1</sup>*

The only export sectors identified to use child labor in the ILO report are the chrome mining industry and gold panning. The report states that, "children are found working...in mining operations, especially in gold panning."<sup>2</sup> There is need for further investigation and comprehensive documentation of child labor in these sectors.

## CHROME MINING

It is alleged that children are employed in small-scale chrome operations which are linked to larger formal sector concerns. In 1984, the Ministry of Labour, Manpower Planning and Social Welfare reported that "purchasing contracts between middlemen for large mining concerns and small mine workings in Darwendale and Mutoroshanga set prices so low that women and children were drafted to work in order to increase output. The chrome was produced by the small mine workers at a fixed price per ton which represented less than a third of the price paid by large mines to the middlemen. The children who worked to produce such profits for these middlemen lacked safe working conditions, had no monitoring of work hazards and no protective clothing."<sup>3</sup>

While these operations were suspended, there have been periodic, ongoing reports of small operators hiring persons to dig into the tunnels and entrances of mines abandoned by the subsidiaries of Zimbabwe's two major chrome companies. Reports suggest that the owners of these mines often contract the actual mining work to subcontractors responsible for hiring labor, and that these subcontractors sometimes hire children as employees.

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<sup>1</sup> *Towards Action Against Child Labour in Zimbabwe* (International Labor Organization, 1992) 43-44 [hereinafter *Towards Action Against Child Labor in Zimbabwe*].

<sup>2</sup> *Id.* at 4.

<sup>3</sup> *Id.* at 49.

Children are also reported to work in chrome mining cooperatives where the "open cast" surface mining method is used. Children are reported to do the actual digging, as well as the sorting of chrome from rubbish. In underground mines, children allegedly lift mined material to the surface.<sup>4</sup>

All economic activity of cooperatives is overseen by the Ministry of National Affairs, Employment Creation, and Cooperatives, and thus is unregulated by either the Ministry of Mines, the Ministry of Public Service, Labor and Social Welfare, or the mining industry's National Employment Council. As children living in cooperatives often work alongside of their parents, and the Zimbabwean government has been avidly promoting the use of cooperatives, the increased use of children in chrome mining has been a direct, if unintended, consequence of government policy.

## **GOLD MINING**

Widespread panning for gold began in Zimbabwe in 1989 as many farmers and rural people, suffering from the effects of drought, poor harvests, structural adjustment, and depressed prices, turned to goldpanning as a source of income. Since then, the number of persons engaged in gold-panning has risen dramatically, making it one of Zimbabwe's largest sources of employment, as well as one of the country's preeminent ecological threats.

The number of panners has been variously estimated at between 50,000 and 500,000.<sup>5</sup> With the world price of gold at approximately \$350 per ounce, even discounting for middlemen, a panner can earn a livable income by netting two to three ounces per year. As more panners per family mean more gold, whole families, children included, frequently pan together.

Although panners are legally required to hold a permit and to sell their gold to the Reserve Bank, compliance with the law is rare. The large numbers of panners, coupled with the huge geographical expanse of the activity, make the industry virtually impossible to regulate. Because of the difficulty in regulating and enforcing panning, the industry has become rife with middlemen, foreign traders, bounty hunters, and others who are quick to provide instant cash to panners. None of the Zimbabwean government's attempts to regulate the industry have been successful and it is believed that the majority of the gold panned ultimately leaves Zimbabwe illegally.

## **III. LAWS OF ZIMBABWE**

### ***A. NATIONAL CHILD LABOR LAWS***

At present, Zimbabwe's labor code does not address child labor. While there is no minimum age set by the government, labor standards for the mining industry are determined by the industry-wide collective bargaining agreement developed by the National Employment Council (NEC) for the Mining Industry, an incorporated body composed of representatives of labor and management. Under Zimbabwean law, the industry agreement made by NEC is binding on all employers and employees in the industry, whether or not they are members.

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<sup>4</sup> Interview with Jeffrey Mutandare, President, Associated Mineworkers Union, by U.S. Department of Labor official (June 14, 1994) [hereinafter Interview with Associated Mineworkers Union].

<sup>5</sup> A Chamber of Mines official gave the figure of 50,000 to 100,000 gold panners while the Associated Mineworkers Union claimed that there are approximately 500,000. Other sources reported varying numbers between these figures. Interview with Doug Verden, Labor Relations Manager, Chamber of Mines, by Department of Labor official (June 13, 1994)[hereinafter Interview with Chamber of Mines official]; Interview with Associated Mineworkers Union.

Under the current NEC agreement, negotiated in 1990, no person under 17 may be employed in the mining industry.<sup>6</sup>

Although the NEC agreement has the authority of law, and the NEC itself has a four-man inspectorate to enforce the agreement, violations occur. There are persistent allegations of the use of child labor by independent mine operators who are not members of the NEC. Because of the small size of the NEC's inspectorate, inspections take place only when specific violations are brought to its attention.<sup>7</sup>

Some specific activities are prohibited for children under the Children's Adoption and Protection Act, 1972, The Labor Relations Act, 1985, and the Factories and Work Act, 1984. These provisions are inadequate and the current ambiguity and weakness in the laws has contributed to the lax enforcement of child labor regulations.<sup>8</sup> The Government of Zimbabwe is currently addressing these legal shortcomings and considering adoption of a draft labor law written in cooperation with the ILO.

The draft labor law, which is due to be presented to the legislature, clearly defines minimum ages for various sectors of work. Part VII, chapter I, of the draft labor law applies to all employers and employees and establishes the basic minimum age at 15. The exceptions include light work and work in a school or training institution as part of education or training (age 13), contractual apprenticeships (age 13), and work that is hazardous or immoral (age 18). The legislation also specifies that no contract with a child less than 15 years old is enforceable, even if the child is married or has his or her guardian's approval.<sup>9</sup>

Because Zimbabwe currently has no child labor laws, there is no enforcement program.

## ***B. EDUCATION LAWS***

Between 1980 and 1991, both the number of schools and student enrollment more than doubled in Zimbabwe under a government policy aimed at achieving the goal of Universal Primary Education. One negative effect of this rapid expansion was a decline in the quality of education.<sup>10</sup> Currently, 73 percent of boys and 69 percent of girls complete primary school.<sup>11</sup> Thereafter, students begin to drop out at a high rate, so that the vast majority do not complete secondary school. With age, the gap in enrollment between boys and girls also grows so that a much larger percentage of boys ultimately graduate from secondary school.

Education was free in Zimbabwe until rising government budget deficits forced the government to impose school fees in 1992. In some schools students are provided with books, in others not; in most of the country parents

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<sup>6</sup> Interview with Chamber of Mines official.

<sup>7</sup> *Id.*

<sup>8</sup> *Towards Action Against Child Labour in Zimbabwe* at 5.

<sup>9</sup> "Proposals for a Draft Labor Act," ILO Labor Law and Labor Relations Branch, (August 11, 1993).

<sup>10</sup> *The Government of Zimbabwe and UNICEF: Programme of Cooperation 1995-2000* (Harare: UNICEF, October 1993) 69.

<sup>11</sup> Interview with Lauchlan Munro, Assistant Planning Officer, UNICEF, by U.S. Department of Labor official (June 13, 1994).

must buy their children school uniforms.<sup>12</sup> In some schools in Harare, overcrowding and/or students' work responsibility has forced schools to "hot-seat" students by conducting separate morning and afternoon sessions.

On commercial farms, education is provided to children in farm schools that are usually paid for and operated by the farm owner. As parents usually cannot pay the necessary fees, many commercial farm owners close the schools down during the harvest season and make children work in return for the use of the schools.<sup>13</sup>

### *C. INTERNATIONAL CONVENTIONS*

The Government of Zimbabwe is a party to the UN Convention on the Rights of the Child.<sup>14</sup> Zimbabwe has not ratified ILO Convention No. 138 Concerning the Minimum Age for Admission to Employment. Zimbabwe has not ratified ILO Conventions No. 5 or No. 59 Concerning Minimum Age for Admission to Employment in Industry.<sup>15</sup>

## **IV. PROGRAMS AND EFFORTS TO ADDRESS CHILD LABOR**

In late 1993 the Zimbabwean Government created a Child Labor Task Force Committee, composed of representatives of the following ministries: Education and Culture; National Affairs, Employment Creation, and Cooperatives; Public Service, Labor and Social Welfare; Health and Child Welfare; Lands, Agriculture, and Water Development; and Local Government and Rural and Urban Development. The Committee has been charged with defining child labor, determining problem areas, and suggesting legislation to alleviate these problems.<sup>16</sup>

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<sup>12</sup> Interview with Remus Mukuwaza, Zimbabwe Chemicals, Plastics, and Allied Workers Union, by U.S. Department of Labor official (June 14, 1994).

<sup>13</sup> Interview with Nicholas Mudzengerere, Assistant Secretary General, Zimbabwe Congress of Trade Unions, by U.S. Department of Labor official (June 14, 1994).

<sup>14</sup> *Country Reports on Human Rights Practices for 1993* (U.S. Department of State, February, 1994) 1403.

<sup>15</sup> *List of Ratifications by Convention and Country (as at 31 December 1992)* (Geneva: International Labor Organization, 1993).

<sup>16</sup> Interview with Mrs. Lilliam Mudzonga, Acting Secretary, and Mrs. S.M. Zamchiya, Ministry of Public Service, Labor, and Social Welfare, by U.S. Department of Labor official (June 13, 1994).

## BACKGROUND AND METHODOLOGY

### A. CONGRESSIONAL MANDATE FOR STUDY

In 1993, the Committees on Appropriations of the 103d Congress directed the Secretary of Labor to conduct a study on child labor practices in manufacturing or mining industries which export to the United States.<sup>1</sup> The report of the Senate Committee on Appropriations (September 15, 1993), establishing the International Child Labor Study and defining the study's mandate states:

*The Committee notes that in many developing countries children represent a substantial portion of the work force and can be found in such industries as glass, metal works, textiles, mining, and fireworks manufacturing. According to UNICEF and the International Labor Organization hundreds of millions of children worldwide under the age of 15 are employed.*

*The Committee understands that child labor laws in many countries around the globe are often not enforced or are circumvented by foreign manufacturers. The Committee also understands that many products made by child labor are being imported into the United States. The Committee believes that (1) since the passage of the Fair Labor Standards Act in 1938, Congress' intent has been to keep streams of commerce undefiled by the products of child labor; (2) American consumers do not want to provide a market for goods produced by the sweat and toil of children; and that (3) adult workers in the United States should not have their jobs imperiled by imports produced by child labor in developing countries. The Committee also believes, however, that more information is needed about the extent of the problem and what foreign industries are exporting products made whole or in part by child labor to the United States.*

*The Committee, therefore . . . directs the Secretary of Labor to undertake a review to identify any foreign industry and their host country that utilize child labor in the export of manufactured products from industry or mining to the United States. In making this review, the Secretary is directed to utilize all available information,*

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<sup>1</sup> See Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Bill, 1994, S. Rep. No. 103-143, 103d Cong., 1st Session 30 (1993); Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1994. Department of Labor Appropriations Act, Public Law 103-112, 10 U.S.C., 107 Stat. 1082 (October 21, 1993).

*including information made available by the International Labor Organization and human rights organizations . . . .*

## **B. INTERNATIONAL CHILD LABOR WORKING GROUP AND STAFF**

As a first step in meeting the Committees' request, the Secretary of Labor established in November 1993 an intra-agency working group led by officials of the Bureau of International Labor Affairs ("ILAB"). Other agencies participating included: Women's Bureau, Solicitor's Office, Fair Labor Standards, Employment Standards Administration, Office of Congressional and Intergovernmental Affairs, and the Office of Public Affairs. The International Child Labor Working Group ("Working Group") was tasked by ILAB to assist in defining the scope of the report, to serve as general advisors within areas of their expertise, and to meet regularly to guide the ongoing work of the study. ILAB then assigned a team to collect information and prepare the report.

## **C. SCOPE OF THE INTERNATIONAL CHILD LABOR STUDY**

To provide focus and consistency to the overall effort, the International Child Labor Study drafted "General Guidelines for Fact-Finding." The guidelines, intended "to provide direction for individuals collecting data" for the study, addressed the scope of the report and important definitions regarding child labor.

**Child Labor.** *"For purposes of this study, child labor is defined by ILO Convention 138 concerning minimum age for admission to employment. Under Convention 138, child labor is generally defined as any worker under the age of 15 in developed countries or under the age of 14 in developing countries."*<sup>2</sup>

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<sup>2</sup> The International Labor Organization describes Convention 138 as follows:

*The International Labour Organization adopted the Minimum Age Convention, 1973 (No. 138) as a general instrument with a view to achieving the effective abolition of child labor. The basic provision of Convention 138 is contained in Article 2 which states that "The minimum age . . . should not be less than the age of compulsory schooling and, in any case, shall not be less than 15 years." Convention 138 allows countries whose economy and educational facilities are insufficiently developed to initially specify a minimum age of 14 years and reduce from 13 years to 12 years the minimum age for light work.*

For the full text of Convention 138, see Appendix C.

*There need not be a formal working agreement, employment relationship, or even compensation to the minor in order for the child labor to exist. As long as the minor's labor contributed in part to the production of goods being exported to the United States, then child labor is being utilized. Work performed outside of a "factory" setting, in private homes, assisting parents to produce goods which will later be remanufactured or further assembled in a more traditional factory environment is still child labor.*

**Manufacturing.** *Manufacturing is generally defined as the fabrication of raw materials into finished or partially finished goods. These goods can then be sold at a profit above the cost of the original raw materials and labor/energy needed to change them into the finished goods. Some examples are milling lumber, producing iron from ore, producing glass from its raw materials and weaving of cotton or wool into cloth.*

*Manufacturing is also the assembly of component parts into completed products. This is in essence a higher level of fabrication. Examples are the assembly of transistors into radios, automobile manufacturing and toy assembly.*

**Processing.** *Processing is generally defined as in some way enhancing an already finished or saleable good. Many agricultural goods are typically processed in order to make them more easily consumed. Examples are refining of sugar cane and canning of fruit and vegetables. The distinction from manufacturing is that a new product is not created, but rather an existing product is altered in some way. Processing need not be limited to agricultural products. Indeed, many gems may be processed before being sold.*

**Mining.** *Mining is generally defined as the removal of minerals from the earth. This can be accomplished either by excavating from deep shafts dug into the earth or the scraping of minerals off the surface of the earth in what is known as open pit mining. Typically minerals such as coal, silver, gold and diamonds are mined in shafts. Iron ore, bauxite, and coal can be mined using the open pit method.*

The Guidelines also include suggestions for identifying sources of information, standards of proof, as well as a list of basic information to be collected. Finally, the Guidelines contain confidentiality criteria to protect sources of information. If a person either specifically requests anonymity or has reason to believe that his or her safety would be jeopardized or their situation compromised, the name is not revealed in the final report.

In short, the scope of the report -- determined by the Congressional mandate -- is any industry utilizing child labor in the manufacturing or mining of products exported to the United States. The minimum age was based upon international standards. It should be noted that the Working Group decided to pursue, where possible, all allegations of child labor in export industries, without first determining the level of involvement of children in any given industry. This determination was made so that no relevant information would be excluded from examination.



## **D. METHODOLOGY**

The Working Group developed, and the staff subsequently refined and implemented, a study strategy incorporating:

- Reports from U.S. embassies overseas;
- Reports and comments from non-governmental organizations throughout the world;
- A search of relevant literature and electronic data bases;
- Input from international organizations, including the International Labor Organization, UNICEF, and the United Nations;
- Reports and comments from international trade union confederations and their regional organizations, national labor unions, and U.S. labor unions and affiliates;
- Commissioned case studies on selected countries;
- Department of Labor field visits to selected countries; and
- Public hearings.

### **1. EMBASSY REPORTS**

To obtain an initial overview of the scope of child labor in mining and manufacturing exports to the United States, the Bureau of International Labor Affairs sent an unclassified telegram to overseas embassies on October 30, 1993.<sup>3</sup> The telegram described the study and requested posts to provide information on whether or not child labor is known or widely believed to be used in industries which export to the United States. In countries where evidence of child labor is uncovered, the embassies were asked to provide any information identifying specific industries, names of child labor experts, and recent studies documenting child labor in manufacturing and mining industries.

In response to the telegram 135 posts [out of approximately 165 posts] provided information on child labor in their country of assignment. On the basis of the replies, 34 countries were identified as having one or more industries which merited further study. This included 20 industries in 11 countries in which the use of child labor in the production of exports to the United States was "clearly established" and another 18 industries in 14 countries in which it was "probable" or "highly possible." In select cases, posts were asked to clarify their responses, or add to available data based upon new information received by the International Child Labor Study staff.

### **2. NGO REPORTS AND COMMENTS**

To solicit input from a wide range of sources, the International Child Labor Study staff contacted more than 700 individuals and non-governmental organizations ("NGOs") throughout the world. In each case, a letter was sent describing the mission and requesting assistance, advice and referrals to additional groups or individuals to contact. To identify pertinent NGOs working in field of children's

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<sup>3</sup> U.S. Department of Labor unclassified telegram no. 331836, October 30, 1993.

rights and child labor, the staff used a listing provided by Defence for Children International in Geneva, Switzerland, and a second, annotated listing of NGOs developed by the International Labor Organization's (ILO) International Programme on the Elimination of Child Labor (IPEC).

In-depth investigation of the conditions of working children worldwide is a new area of research and concern. Even among those NGOs whose purpose is to promote and protect children's rights, only a minority examine child labor; an even smaller number target children working in export industries.

There has been a recent increase in attention paid to children's rights because of the U.N. Convention on the Rights of the Child, the establishment of the U.N. Committee on the Rights of the Child, the creation of the ILO's IPEC program which specifically targets the elimination of child labor, and new multilateral and unilateral initiatives aimed at combatting child labor.

A notice was published in the *Federal Register* on November 8, 1993, describing the International Child Labor Study and requesting relevant information and/or comments. Staff members conducted follow-up meetings and telephone conversations with many interested U.S.-based labor and human rights organizations and advocates as well as international NGOs in Geneva, London, Bonn and Brussels. Finally, Department of Labor officials travelled to 13 countries to discuss the situation of child labor with foreign governments and indigenous NGOs.

Many of the NGOs supplied publications and names of experts and additional contacts. Particularly helpful in the initial stage of the study were Amnesty International, Anti-Slavery International, the Child Labor Coalition, Defense for Children International, Human Rights Watch/Asia, and the International Labor Rights Education and Research Fund.

Additionally, the staff contacted several independent experts, academics, representatives of the business community, and journalists covering labor or social issues.

### **3. LITERATURE AND DATA BASE SEARCH**

Staff members of the International Child Labor Study conducted a thorough literature search through the Lexis/Nexis network, Dialog, the Defense for Children International Database and the ILO Library database. This search provided numerous summaries of recent articles and wire service reports, many of which included useful references to groups and individuals interested in child labor issues and recent publications of note.

### **4. INTERNATIONAL ORGANIZATIONS**

Congress specifically directed the International Child Labor Study "to utilize all available information, including information made available by the International Labor Organization . . .," in conducting its study. The Study Director met with most of the departments which contribute to the ILO's work researching and combatting child labor.

The ILO has formal responsibility in the international community for developing and monitoring all international labor standards, including child labor and forced labor standards. It is currently conducting a major initiative in the child labor field known as the International Programme on the Elimination of Child Labor (IPEC). Under IPEC, the ILO has established cooperative programs with Brazil, India, Indonesia, Kenya, Thailand and Turkey, and is planning future joint programs with Bangladesh, Cameroon, Egypt, Pakistan, the Philippines and Tanzania. Representatives of the U.S. Department of Labor also met with regional ILO and IPEC officials during trips to Bangladesh, Egypt, India, Indonesia, Pakistan, the Philippines, and Thailand.

A number of other international organizations were contacted for information regarding the situation of child labor in export industries, including UNICEF. UNICEF, together with the ILO, is in the forefront of conducting research and developing plans to abolish child labor and supporting the education and welfare of displaced child workers. Discussions also were held with staff members of the United Nations Centre for Human Rights whose competence covers the U.N. Working Group on Contemporary Forms of Slavery, the U.N. Committee on the Rights of the Child, as well as the U.N. Special Rapporteur on the Sale of the Child, Child Prostitution, and Child Pornography. In addition, meetings were held with staff members of the European Union in Brussels.

## **5. UNIONS AND INTERNATIONAL TRADE UNION CONFEDERATIONS**

Specific requests for information were directed to labor unions throughout the world. The international, or parent labor organizations, often gather information or initiate programs of action regarding child labor. In particular, the International Confederation of Free Trade Unions (ICFTU), and its Youth Programme, has mobilized efforts internationally. In June 1994, the ICFTU launched a campaign against child labor and published a report on child labor in specific industries in India, Nepal, Bangladesh, Mexico, and the Philippines.

International and national trade union federations whose jurisdiction includes industries which are highly labor intensive, such as the International Textile, Garment and Leather Workers' Federation, also are active in the field and provided information to the International Child Labor Study. The International Child Labor Study also sought input from the AFL-CIO (the U.S. affiliate of the ICFTU), the national unions affiliated with the AFL-CIO which have an interest in child labor, as well as the AFL-CIO International Institutes: the African-American Labor Center, the American Institute for Free Labor Development, the Asian-American Free Labor Institute, and the Free Trade Union Institute.

## **6. COMMISSIONED STUDIES**

On the basis of preliminary information from the sources mentioned above, the International Child Labor Study staff prepared preliminary country summaries. In certain cases, a pattern of child labor in export industries was noted, and in other cases, specific unsubstantiated or uncorroborated allegations were raised that warranted further investigation. In both cases, it was determined that more information was required.

The staff also commissioned a series of studies to obtain more current or corroborative information. Individual experts and labor and human rights organizations conducted in-depth studies on child labor in export industries in Indonesia, Morocco, India, Bangladesh, China, Nepal, Pakistan, Mexico, Guatemala and other Central American countries, Colombia, and Brazil. While contractors were given flexibility in devising research methodology, they were asked to analyze the legal and factual situation regarding child labor in their assigned country, as well as strongly encouraged to consult, as appropriate, with a wide range of parties concerned with child labor issues. Contractors were provided with materials collected by the International Child Labor Study staff and requested to review and critique that information in their final report. The reports, which differed in their degree of thoroughness, were weighed carefully in light of the fact that they might contain the most recent information. Such reports represent only one avenue in the information gathering process and were analyzed together with other information received. The reports are on file with the International Child Labor Study.

## **7. ON-SITE VISITS BY LABOR DEPARTMENT OFFICIALS**

In addition to the case studies, representatives of the Bureau of International Labor Affairs visited a number of countries on behalf of the Child Labor Study. The purpose of the visits was to 1) assess the veracity of information gathered; 2) investigate the context and extent of child labor; 3) discuss child labor with foreign government officials; and 4) collect additional information. Every effort was made to contact all segments of society concerned with child labor. In nearly each visit, discussions were held between ILAB officials and representatives of the host government, non-governmental organizations, trade unions, industry and business, ILO, UNICEF, academia, local activists, children, and the American embassy. ILAB officials visited factories or other worksites/workshops in both prearranged and unannounced "inspections." There were times where it was apparent that a worksite had been cleared of any working children prior to the arrival of the ILAB visitor; other times no effort was made to avoid the obvious fact that children were actively participating in an industry. In the case of one unannounced visit, it was the children themselves who invited the U.S. Government officials up to see their work environment. ILAB officials visited Bangladesh, Cote d'Ivoire, Egypt, India, Indonesia, Lesotho, Morocco, Pakistan, Philippines, Portugal, South Africa, Thailand, and Zimbabwe.

## **8. PUBLIC HEARINGS**

To insure that all interested individuals and/or organizations had ample opportunity to present relevant factual information (in person and/or in writing) to the International Child Labor Study, an open hearing chaired by Deputy Under Secretary for International Labor Affairs Joaquin F. Otero, was held on Tuesday, April 12, 1994 in Washington, DC at the U.S. Department of Labor. The hearing was publicized in advance through a notice in the *Federal Register*, a telegram to U.S. embassies, and letters to hundreds of interested individuals, organizations, business leaders, and foreign governments.

Senator Tom Harkin, Representative George E. Brown, Jr. and Representative Bernard Sanders testified. Other witnesses included representatives from the International Labor Organization, the AFL-CIO, the International Labor Rights Education and Research Fund, the Oriental Rug Importers Association of America, ChildRight Worldwide - Nobel Prizewinners Initiative to Stop the Exploitation of Children, National Knitwear and Sportswear Association, Human Rights Watch/Asia, Defense for Children International-USA, the Child Labor Coalition, United Food and Commercial Workers International Union, the Asian-American Free Labor Institute, Women and Children International, a free-lance journalist, and the Embassy of Croatia.

Seventeen other organizations or governments submitted written statements for the record. Submissions were received from the governments of Bangladesh, Colombia, Jamaica, India, Pakistan, and Thailand. Additional statements placed on the record include those from: Kepondang Foundation - Indonesia, International Confederation of Free Trade Unions, South Asian Coalition on Child Servitude, International Ladies Garment Workers Union - AFL-CIO, FOPHUR - Nepal, Bangladesh Commission on Justice and Peace, Professor Myron Weiner (M.I.T.), Indonesian Documentation Centre (The Netherlands), Ms. Almas Alam, Professor Omar Noman (Oxford University), and Federatie Nederlandse Vakbeweging (The Netherlands).

## **9. FINAL REPORT**

The Committees specifically sought information on child labor in manufacturing and mining industries and their host countries which export to the United States. Throughout the research process, the International Child Labor Study staff asked U.S. embassy officials to report on trade data related to manufacturing and mining industries. Data on U.S. imports also were obtained from the U.S. Department of Commerce report, *"U.S. Merchandise Trade: Exports and General Imports by Country,"* and the Piers Imports Database, *Journal of Commerce* 1994. Where an industry in a particular country was identified as manufacturing products using child labor, the Child Labor Study staff attempted to determine whether such products were being exported to the United States. On the whole, no industry utilizing child labor was dropped from analysis solely because the amount of export to the United States was below a certain level. On the other hand, it was outside the scope of this study determine whether 1) a specific product made by children was exported to the United States; 2) which companies manufactured, exported or imported the product; or 3) where in the United States such a product is sold. Thus, names of individuals, specific product names or brands, or specific names of companies are not cited in the report.

The guiding principle used in analyzing the information was to produce a balanced, candid, and factual report. Many pieces of information collected during the course of this study contradicted one another, both in matters of fact and conclusion. In other instances, patterns clearly emerged. In many cases allegations could not be substantiated with the resources available. In many cases parallel allegations by separate organizations provide widely different estimates on the number of children actually employed in a particular industry, with the difference between the estimates often greater than some of the estimates themselves. Thus, where it was determined that credible assertions of child labor existed, it was reported. Where contradictory evidence was found, it was noted. Where little information is known, but enough anecdotal evidence suggests the existence of child labor, the

report states that more research is needed. Where there is clear evidence of child labor, either through the preponderance of reports or eyewitness testimony, the report identifies that an industry employs children.

Finally, the report presents country case studies on the use of child labor in export industries. The choice of which countries to include as a case study highlight more often reflects open access to credible information, combined with an active export sector, than a judgment that any particular country values its children more or less than another. There are certain countries where facts about child labor have been documented for many years, and thus more information is available to report. There are other areas where it is believed that child labor in the export sector may exist, but access to credible information is not available due to 1) the limited time available to collect data before publication of this report; 2) the systematic intimidation of persons investigating situations of child labor; or 3) a lack of attention given the topic by indigenous groups.

## Appendix B

### **COUNTRY STUDIES COMMISSIONED BY THE DEPARTMENT OF LABOR**

- |     |                 |  |
|-----|-----------------|--|
| 1.  | Bangladesh      | Asian-American Free Labor Institute                    |
| 2.  | Brazil          | Terri Lapinsky   |
| 3.  | Central America | Kenneth L. Klothen, TADD International                 |
|     | El Salvador     |  |
|     | Guatemala       |  |
|     | Honduras        |  |
| 4.  | China           | Asian-American Free Labor Institute                    |
| 5.  | Colombia        | María Cristina Salazar                                 |
| 6.  | India           | International Labor Rights Education and Research Fund |
| 7.  | Indonesia       | Jeffrey Ballinger                                      |
| 8.  | Mexico          | Kenneth L. Klothen, TADD International                 |
| 9.  | Morocco         | Soumaya Naamane-Guessous                               |
| 10. | Nepal           | Asian-American Free Labor Institute                    |
| 11. | Pakistan        | Asian-American Free Labor Institute                    |

### **U.S. DEPARTMENT OF LABOR COUNTRY VISITS**

- |     |               |   |
|-----|---------------|---|
| 1.  | Bangladesh    | Sonia A. Rosen, Director, International Child Labor Study                                       |
| 2.  | Côte D'Ivoire | Robert B. Shepard, Asst. Area Advisor for Africa  |
| 3.  | Egypt         | Daniel Solomon, Special Assistant to the Deputy Under Secretary for International Labor Affairs |
| 4.  | India         | Sonia A. Rosen, Director, International Child Labor Study                                       |
| 5.  | Indonesia     | Andrew J. Samet, Associate Deputy Under Secretary for International Labor Affairs               |
| 6.  | Lesotho       | Robert B. Shepard, Asst. Area Advisor for Africa  |
| 7.  | Morocco       | Daniel Solomon, Special Assistant to the Deputy Under Secretary for International Labor Affairs |
| 8.  | Pakistan      | Sonia A. Rosen, Director, International Child Labor Study                                       |
| 9.  | Philippines   | Andrew J. Samet, Associate Deputy Under Secretary for International Labor Affairs               |
| 10. | Portugal      | Daniel Solomon, Special Assistant to the Deputy Under Secretary for International Labor Affairs |
| 11. | South Africa  | Robert B. Shepard, Asst. Area Advisor for Africa  |
| 12. | Thailand      | Andrew J. Samet, Associate Deputy Under Secretary for International Labor Affairs               |

13. Zimbabwe Robert Shephard, Asst. Area Advisor for Africa



*International Labor Organization*  
*C138 Minimum Age Convention, 1973*  
*PREAMBLE*

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-eighth Session on 6 June 1973, and

Having decided upon the adoption of certain proposals with regard to minimum age for admission to employment, which is the fourth item on the agenda of the session, and

Noting the terms of the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932 the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965, and

Considering that the time has come to establish a general instrument on the subject, which would gradually replace the existing ones applicable to limited economic sectors, with a view to achieving the total abolition of child labour, and

Having determined that these proposals shall take the form of an international Convention,

adopts the twenty-sixth day of June of the year one thousand nine hundred and seventy-three, the following convention, which may be cited as the Minimum Age Convention, 1973:

*Article 1*

Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.

## *Article 2*

1. Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation.
2. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour office, by further declarations, that it specifies a minimum age higher than that previously specified.
3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.
4. Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.
5. Each Member which has specified a minimum age of 14 years in pursuance of the provisions of the preceding paragraph shall include in its reports on the application of this Convention submitted under article 22 of the constitution of the International Labour Organisation a statement--
  - (a) that its reason for doing so subsists; or
  - (b) that it renounces its right to avail itself of the provisions in question as from a stated date.

## *Article 3*

1. The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out, is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.
2. The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist.
3. Notwithstanding the provisions of paragraph 1 of this Article national laws or regulations or the competent authority may, after consultation with the organisations of employers and workers concerned, where such exist, authorise employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

## *Article 4*

1. In so far as necessary, the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, may exclude from the application of this Convention limited categories of employment or work in respect of which special and substantial problems of application arise.

2. Each Member which ratifies this Convention shall list in its first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation any categories which may have been excluded in pursuance of paragraph 1 of this Article, giving the reasons for such exclusion, and shall state in subsequent reports the position of its law and practice in respect of the categories excluded and the extent to which effect has been given or is proposed to be given to the Convention in respect of such categories.

3. Employment or work covered by Article 3 of this Convention shall not be excluded from the application of the Convention in pursuance of this Article.

#### *Article 5*

1. A Member whose economy and administrative facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist initially limit the scope of application of this Convention.

2. Each Member which avails itself of the provisions of paragraph 1 of this Article shall specify, in a declaration appended to its ratification, the branches of economic activity or types of undertakings to which it will apply the provisions of the Convention.

3. The provisions of the Convention shall be applicable as a minimum to the following: mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.

4. Any Member which has limited the scope of application of this Convention in pursuance of this Article--

(a) shall indicate in its reports under article 22 of the Constitution of the International Labour Organisation the general position as regards the employment or work of young persons and children in the branches of activity which are excluded from the scope of application of this Convention and any progress which may have been made towards wider application of the provisions of the Convention;

(b) may at any time formally extend the scope of application by a declaration addressed to the Director-General of the International Labour Office.

#### *Article 6*

This Convention does not apply to work done by children and young persons in schools for general, vocational or technical education or in other training institutions, or to work done by persons at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority after consultation with the organisations of employers and workers concerned, where such exist, and is an integral part of

- (a) a course of education or training for which a school or training institution is primarily responsible;
- (b) a programme of training mainly or entirely in an undertaking which programme has been approved by the competent authority; or
- (c) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.

### *Article 7*

1. National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is--

- (a) not likely to be harmful to their health or development; and
- (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

2. National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements set forth in sub-paragraphs (a) and (b) of paragraph 1 of this Article.

3. The competent authority shall determine the activities in which employment or work may be permitted under paragraphs 1 and 2 of this Article and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which has availed itself of the provisions of paragraph 4 of Article 2 may, for as long as it continues to do so substitute the ages 12 and 14 for the ages 13 and 15 in paragraph 1 and the age 14 for the age 15 in paragraph 2 of this Article.

### *Article 8*

1. After consultation with the organisations of employers and workers concerned, where such exist, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment or work provided for in Article 2 of this Convention, for such purposes as participation in artistic performances.

2. Permits so granted shall limit the number of hours during which and prescribe the conditions in which employment or work is allowed.

### *Article 9*

1. All necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.
2. National laws or regulations or the competent authority shall define the persons responsible for compliance with the provisions giving effect to the Convention.
3. National laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom he employs or who work for him and who are less than 18 years of age.

### *Article 10*

1. This Convention revises, on the terms set forth in this Article the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921 the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965. The coming into force of this Convention shall not close the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, or the Minimum Age (Underground Work) Convention, 1965, to further ratification.
3. The Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention 1921, and the Minimum Age (Trimmers and Stokers) Convention, 1921 shall be closed to further ratification when all the parties thereto have consented to such closing by ratification of this Convention or by a declaration communicated to the Director-General of the International Labour Office.
4. When the obligations of this Convention are accepted--
  - (a) by a Member which is a party to the Minimum Age (Industry) Convention (Revised), 1937, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention this shall ipso jure involve the immediate denunciation of that convention,
  - (b) in respect of non-industrial employment as defined in the Minimum Age (Non-Industrial Employment) Convention, 1932, by a Member which is a party to that Convention, this shall ipso jure involve the immediate denunciation of that Convention,
  - (c) in respect of non-industrial employment as defined in the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937 by a Member which is a party to that

Convention, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention,

(d) in respect of maritime employment, by a Member which is a party to the Minimum Age (Sea) Convention (Revised), 1936, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member specifies that Article 3 of this convention applies to maritime employment, this shall ipso jure involve the immediate denunciation of that Convention,

(e) in respect of employment in maritime fishing, by a Member which is a party to the Minimum Age (Fishermen) Convention, 1959, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member specifies that Article 3 of this Convention applies to employment in maritime fishing, this shall ipso jure involve the immediate denunciation of that convention,

(f) by a Member which is a party to the Minimum Age (underground Work) Convention, 1965, and a minimum age of not less than the age specified in pursuance of that Convention is specified in pursuance of Article 2 of this Convention or the Member specifies that such an age applies to employment underground in mines in virtue of Article 3 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention, if and when this Convention shall have come into force.

5. Acceptance of the obligations of this Convention--

(a) shall involve the denunciation of the Minimum Age (Industry) Convention, 1919, in accordance with Article 12 thereof,

(b) in respect of agriculture shall involve the denunciation of the Minimum Age (Agriculture) Convention, 1921, in accordance with Article 9 thereof,

(c) in respect of maritime employment shall involve the denunciation of the Minimum Age (Sea) Convention, 1920, in accordance with Article 10 thereof, and of the Minimum Age (Trimmers and Stokers) Convention, 1921, in accordance with Article 12 thereof, if and when this Convention shall have come into force.

*FINAL PROVISIONS*

*Article 11*

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour office for registration.

*Article 12*

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

### *Article 13*

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an Act communicated to the Director-General of the International Labour Office for registration. Such denunciation should not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

### *Article 14*

1. The Director-General of the International Labour office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

### *Article 15*

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

### *Article 16*

At such times as may consider necessary the Governing Body of the International Labour office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

### *Article 17*

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

a) the ratification by a Member of the new revising convention shall ipso jure involve the immediate denunciation of this Convention notwithstanding the provisions of Article 13 above, if and when the new revising Convention shall have come into force;

b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

#### *Article 18*

The English and French versions of the text of this Convention are equally authoritative.